

FEDERAL REGISTER

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Washington, Wednesday, October 1, 1941

The President

NATIONAL CATAHOULA WILDLIFE MANAGEMENT PRESERVE, LOUISIANA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

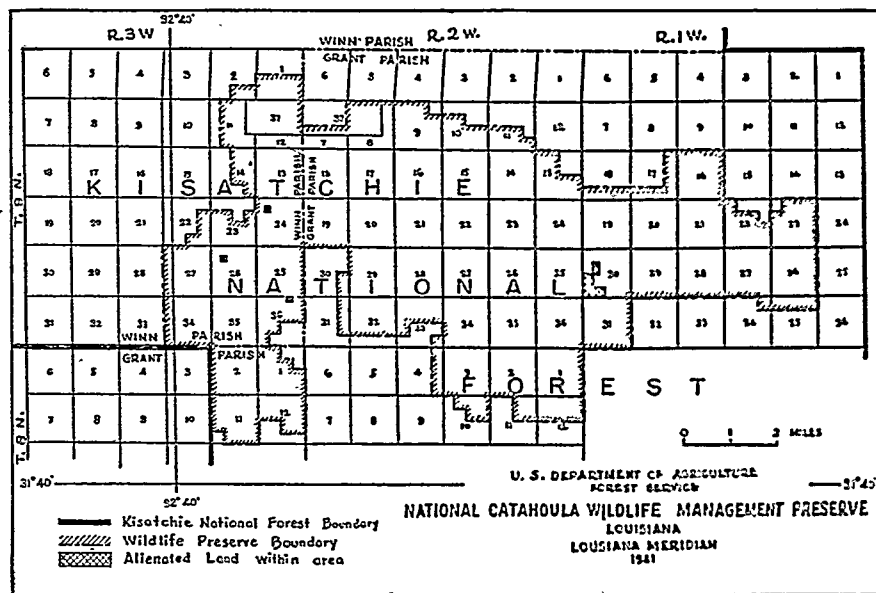
WHEREAS it appears that the designation and setting aside of the areas in the State of Louisiana, hereinafter indicated, for the protection of game animals, birds and fish will promote the public good:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by the act of Congress approved August 11, 1916 (39 Stat. 446, 476; 16 U.S.C. 683), do proclaim that there are hereby designated and set aside for the protection of game

animals, birds and fish, all lands of the United States within the Kisatchie National Forest in the State of Louisiana purchased under the provisions of the act of March 1, 1911 (36 Stat. 961; 16 U.S.C. 480, 500, 513-519, 521), and the acts supplemental thereto and amendatory thereof, as shown on the diagram forming a part hereof, to be known as the National Catahoula Wildlife Management Preserve.

All persons are hereby informed that it is unlawful to hunt, catch, trap, willfully disturb, or kill any kind of game animal, game or nongame bird, or fish, or to take the eggs of any such bird, on any lands herein designated or in or on the waters thereof, except under such general rules and regulations as may be prescribed from time to time by the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.



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FEDERAL REGISTER

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DONE at the City of Washington this 27th day of September, in the year of our Lord nineteen hundred and [SEAL] forty-one, and of the Independence of the United States of America, the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2515]

[F. R. Doc. 41-7296; Filed, September 30, 1941; 11:23 a. m.]

NATIONAL RED DIRT WILDLIFE MANAGEMENT PRESERVE, LOUISIANA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that the designation and setting aside of the areas in

the State of Louisiana, hereinafter indicated, for the protection of game animals, birds and fish will promote the public good:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by the act of Congress approved August 11, 1916 (39 Stat. 446, 476; 16 U. S. C. 683), do proclaim that there are hereby designated and set aside for the protection of game animals, birds and fish, all lands of the United States within the Kisatchie National Forest in the State of Louisiana purchased under the provisions of the act of March 1, 1911 (36 Stat. 961; 16 U. S. C. 480, 500, 513-519, 521), and the acts supplemental thereto and amendatory thereof, as shown on the diagram forming a part hereof, to be known as the National Red Dirt Wildlife Management Preserve.

All persons are hereby informed that it is unlawful to hunt, catch, trap, willfully disturb, or kill any kind of game animal, game or nongame bird, or fish, or to take the eggs of any such bird, on any lands herein designated or in or on the waters thereof, except under such general rules and regulations as may be prescribed from time to time by the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 27th day of September, in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America, the one hundred and sixty-sixth.

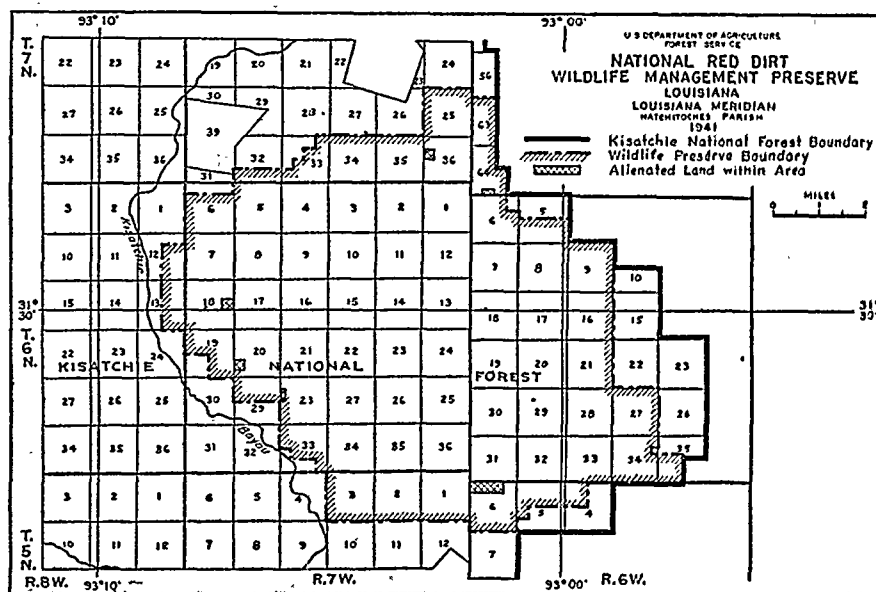
FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2514]

[F. R. Doc. 41-7295; Filed, September 30, 1941; 11:23 a. m.]



EXECUTIVE ORDER

TRANSFER OF CERTAIN LANDS FROM THE
SECRETARY OF THE INTERIOR TO THE SEC-
RETARY OF AGRICULTURE

NEW MEXICO

By virtue of the authority vested in me by section 32 of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 525), it is ordered that the following-described lands, transferred from the Secretary of Agriculture to the Secretary of the Interior by Executive Order No. 8471¹ of July 8, 1940, be, and they are hereby, transferred from the Secretary of the Interior to the Secretary of Agriculture for use in connection with the land-conservation and land-utilization program of the Soil Conservation Service:

JEMEZ PROJECT, LI-NM-9

SANDOVAL COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 18 N., R. 2 W., those parts lying within the Ojo del Espiritu Santo Land Grant, as described in U. S. Survey No. 44.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 27, 1941.

[No. 8912]

[F. R. Doc. 41-7264; Filed, September 29, 1941;
2:44 p. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR USE
IN CONNECTION WITH THE SQUAW BUTTE
EXPERIMENTAL STATION

OREGON

By virtue of the authority vested in me as President of the United States, it is hereby ordered that all the public lands within the following-described area be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and, subject to valid existing rights, reserved for the use of the Secretary of the Interior as an experimental range for scientific research and other studies to provide basic information for the administration of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended:

Willamette Meridian

T. 24 S., R. 25 E.,
sec. 1, S $\frac{1}{2}$;
sec. 2, S $\frac{1}{2}$;
sec. 3, S $\frac{1}{2}$;
sec. 4, S $\frac{1}{2}$;
sec. 5, S $\frac{1}{2}$;
secs. 8 to 17, inclusive;
secs. 20 to 29, inclusive;
sec. 32, N $\frac{1}{2}$;
sec. 33, N $\frac{1}{2}$;
sec. 34, N $\frac{1}{2}$;
sec. 35, N $\frac{1}{2}$;
sec. 36, N $\frac{1}{2}$;
T. 24 S., R. 26 E., sec. 6, lots 6 and 7.

15 F. R. 2519.

This order shall continue in full force and effect until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 27, 1941.

[No. 8911]

[F. R. Doc. 41-7263; Filed, September 29, 1941;
2:44 p. m.]

EXECUTIVE ORDER

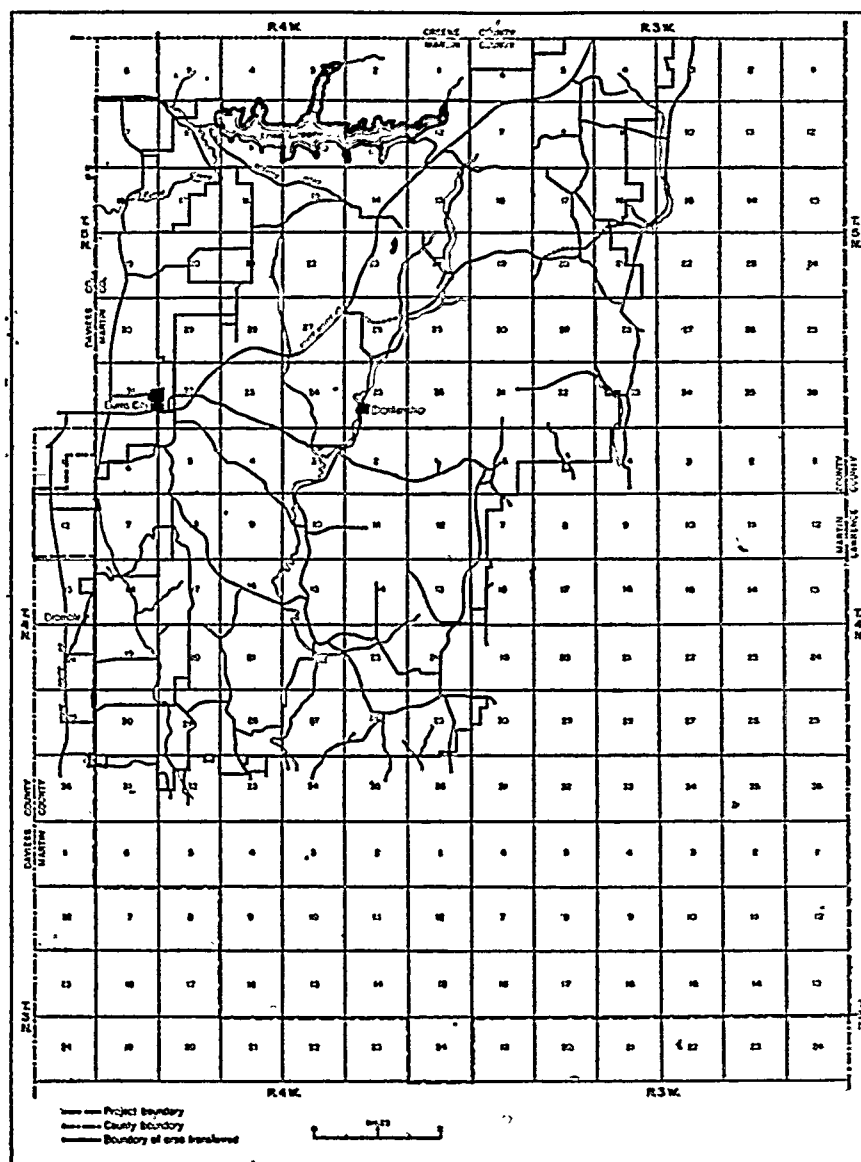
TRANSFER OF JURISDICTION OVER CERTAIN
LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE NAVY

INDIANA

WHEREAS certain lands within the area shown on the diagram attached hereto have been acquired or are in the process of acquisition under the authority of Title II of the National Industrial

Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), in connection with the Martin County and White River Land Utilization Projects of the Department of Agriculture, in Indiana; and

WHEREAS by Executive Order No. 7908² of June 9, 1938, all the right, title, and interest of the United States in those lands acquired or in process of acquisition under the authority of the aforesaid National Industrial Recovery Act and the Emergency Relief Appropriation Act of 1935 were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the aforesaid Bankhead-Jones Farm Tenant Act, and the

¹ 3 F. R. 1323.

related provisions of Title IV thereof; and immediately upon the acquisition of the legal title to those lands now in the process of acquisition under the authority of said acts, said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

WHEREAS it appears that the use of such lands by the Navy Department for national defense purposes would best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired, and would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 32 of Title III of the said Bankhead-Jones Farm Tenant Act, and upon recommendation of the Secretary of Agriculture, it is ordered that the lands acquired or in the process of acquisition by the United States within the area delineated on the diagram attached hereto and made a part hereof, together with the improvements thereon, be, and they are hereby, transferred from the Secretary of Agriculture to the Secretary of the Navy for national defense purposes: *Provided, however,* That the Secretary of Agriculture shall retain such jurisdiction over the lands now in the process of acquisition by the United States as may be necessary to enable him to complete their acquisition.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
September 27, 1941.

[No. 8910]

[F. R. Doc. 41-7262; Filed, September 29, 1941;
2:44 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IX—SURPLUS MARKET- ING ADMINISTRATION

PART 927—MILK IN THE NEW YORK MET- ROPOLITAN AREA

ORDER OF THE SECRETARY OF AGRICULTURE MAKING EFFECTIVE AMENDMENT NO. 3¹ TO THE ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA²

The Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, on August 29, 1941, amendment No. 3 to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, said amendment No. 3

to become effective at such time as the Secretary might subsequently declare.

The requirements of section 8c (9) of such act have been complied with.

Pursuant to the powers conferred upon the Secretary of Agriculture by said act, it is hereby declared that said amendment No. 3 to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, as further amended by amendments No. 1 and No. 2, shall be effective on and after 12:01 a. m., e. d. s. t., October 1, 1941, and it is hereby ordered that such handling of milk produced for sale in the New York metropolitan milk marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from such effective date, be in compliance with the terms and conditions of the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, as amended by amendment No. 1, amendment No. 2, and amendment No. 3.

It is hereby determined that an emergency exists which requires a shorter period of notice than that specified in the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, and that the notice herewith given is reasonable under the circumstances.

Done at Washington, D. C., this 29th day of September 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 41-7298; Filed, September 30, 1941;
11:27 a. m.]

TITLE 17—COMMODITY AND SECURI- TIES EXCHANGES

CHAPTER II—SECURITIES AND EX- CHANGE COMMISSION

PART 230—GENERAL RULES AND REGULA- TIONS, SECURITIES ACT OF 1933

AMENDMENT DEFINING TERMS USED IN FORMS FOR REGISTRATION UNDER THE ACT

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly sections 7, 10, and 19 (a) thereof (Sec. 7, 48 Stat. 78; Sec. 10, 48 Stat. 81; Sec. 206, 48 Stat. 907; Sec. 19, 48 Stat. 85; Sec. 209, 48 Stat. 908; 15 U.S.C. 77g, 77j, and 77s), and deeming such action necessary and appropriate in the public interest and for the protection of investors, and necessary to carry out the provisions of the Act, hereby takes the following action:

Section 230.455 [Rule 455] of the General Rules and Regulations under the Act is amended by adding thereto the following definitions:

§ 230.455 *Definition of terms used in the forms for registration.*

(q) *Promoter.* The term "promoter" includes:

(1) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer;

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent or more or any class of securities of the issuer or ten percent or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

(r) *Succession.* The term "succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase, or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have meanings correlative to the foregoing.

Effective September 29, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7265; Filed, September 29, 1941;
2:59 p. m.]

PART 239—FORMS, SECURITIES ACT OF 1933

ADOPTION OF FORM S-3 FOR REGISTRATION UNDER THE ACT OF SHARES OF MINING COR- PORATIONS IN THE PROMOTIONAL STAGE

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly sections 7, 10, and 19 (a) thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors, and necessary to carry out the provisions of the Act, hereby takes the following action:

The Commission hereby adopts Form S-3¹ For Registration Under the Securities Act of 1933 of Shares of Mining Corporations in the Promotional Stage.

Effective September 29, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7266; Filed, September 29, 1941;
2:59 p. m.]

¹Filed with the original document.

¹6 F.R. 4507.

²See also Department of Agriculture, Surplus Marketing Administration *infra*.

TITLE 26—INTERNAL REVENUE
CHAPTER I—BUREAU OF INTERNAL REVENUE

[Regulations 51, 1941 Edition]

PART 320—RETAILERS' EXCISE TAXES

SUBPART A—INTRODUCTORY

Sec. 320.0 Scope of regulations.

SUBPART B—GENERAL PROVISIONS

320.1 Meaning of terms.
 320.2 Effective period.
 320.3 Liability for tax.
 320.4 When tax attaches.
 320.5 Basis of tax on sales generally.
 320.6 Charges for coverings, containers, etc., generally.
 320.7 Exclusion of tax.
 320.8 Exclusion of charges for transportation, delivery, etc., generally.
 320.9 Discounts and adjustments, generally.
 320.10 Basis of tax on leases, installment sales and conditional sales.

SUBPART C—GENERAL EXEMPTIONS

320.20 Sales to States or political subdivisions thereof and to the United States.
 320.21 Sales for export.
 320.22 Shipments to possessions of the United States.

SUBPART D—JEWELRY, ETC.

320.30 Scope of tax.
 320.31 Jewelry.
 320.32 Pearls, precious and semi-precious stones, and imitations thereof.
 320.33 Articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof.
 320.34 Watches and clocks.
 320.35 Gold, gold-plated, silver, silver-plated or sterling flatware or hollow ware.
 320.36 Opera glasses, lorgnettes, marine glasses, etc.
 320.37 Exemptions.
 320.38 Rate of tax.

SUBPART E—TAX ON FURS

320.40 Scope of tax.
 320.41 Rate of tax.

SUBPART F—TOILET PREPARATIONS, ETC.

320.50 Scope of tax.
 320.51 Rate of tax.
 320.52 Sales to beauty parlors, etc.

SUBPART G—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

320.60 Returns.
 320.61 Payment of taxes.
 320.62 Records.
 320.63 Jeopardy assessment.
 320.64 Returned goods; price adjustments.
 320.65 Beauty parlors, etc.
 320.66 Credits and refunds generally.
 320.67 Penalties and interest.
 320.68 Promulgation of regulations.

SUBPART A—INTRODUCTORY

§ 320.0 *Scope of regulations.* The regulations in this part deal with excise taxes imposed by Chapter 19, of the Internal Revenue Code, as added by section 552 of the Revenue Act of 1941, on sales by the retailer of:

- (a) Jewelry.
- (b) Furs.
- (c) Toilet preparations.

Taxes on sales of articles of the three classes will be considered hereinafter in the order indicated. The regulations with respect to the imposition, manner of application, and computation of tax liability are set forth in Subparts B to F, inclusive. The regulations relating to

the return and collection of tax and the imposition of penalties and other matters are contained in subpart G.*

* §§ 320.0 to 320.68, inclusive, issued under the authority contained in section 2410 of the Internal Revenue Code, added by section 552 of the Revenue Act of 1941 (Public Law 250, 77th Congress), and follow the statutory provisions to which they respectively refer.

SUBPART B—GENERAL PROVISIONS

Definitions

SEC. 3797. **DEFINITIONS.** (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

SEC. 2404. **DEFINITION OF SALE.** For the purposes of this chapter, the lease of an article shall be considered the sale of such article.

§ 320.1 *Meaning of terms.* As used in the regulations in this part—

(a) The terms defined in the applicable provisions of law shall have the meanings so assigned to them.

(b) The phrase "every person who sells at retail" means any person engaged in the business of selling articles to a purchaser at retail.

(c) The term "exporter" means the person named as shipper or consignor in the export bill of lading.

(d) The term "exportation" means the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States.

(e) The term "possession of the United States" includes the Philippine Islands, the Panama Canal Zone, the Virgin

Islands, Guam, Puerto Rico, American Samoa, Wake, Palmyra, and the Midway Islands.

(f) The term "sale" means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership) in goods to the buyer for a consideration called the price, which may consist of money, services, or other things.

(g) The term "taxable article" means any article taxable under Chapter 19, of the Internal Revenue Code.

(h) The term "vendor" includes a lessor.

(i) The term "purchaser" includes a lessee.*

Effective Period

SEC. 2411. **EFFECTIVE DATE.** This part shall be effective on and after October 1, 1941.

§ 320.2 *Effective period.* The taxes imposed under Chapter 19 of the Internal Revenue Code are applicable to articles sold or leased on and after October 1, 1941.*

Liability for Tax

§ 320.3 *Liability for tax.* Every person who sells at retail any article covered by the regulations in this part, or leases such article, is liable for tax whether such sale or lease is made directly or through an agent.*

§ 320.4 *When tax attaches.* In general the tax attaches when the title to the article sold passes from the retailer to a purchaser.

When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes. Generally, title passes upon delivery of the article to the purchaser or to a carrier for the purchaser.

In the case of a sale on credit, it is immaterial whether or not the purchase price is actually collected.

Where an article is consigned to any person for sale at retail and the consignor maintains control over the terms and prices for which the article may be sold by the consignee, the consignor is considered to be the "person who sells at retail" when the consignee sells the taxable article.

Where an article is consigned to any person for sale at retail and the consignor maintains no control over the terms and prices for which the article may be sold at retail by the consignee, such consignee is considered the "person who sells at retail" when such article is sold by him.

In the case of an installment sale, where title does not pass until a future date, a conditional sale, or a lease, a proportionate part of the tax attaches on each payment. See § 320.10.*

[SEC. 2463. **RETURN AND PAYMENT OF RETAILERS' EXCISE TAXES.**]

(c) In determining, for the purposes of this chapter, the price for which an article

is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Commissioner, in accordance with the regulations. There shall also be excluded, if stated as a separate charge, the amount of any retail sales tax imposed by any State or Territory or political subdivision of the foregoing, or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee.

§ 320.5 *Basis of tax on sales generally.* The tax is imposed on the sale by the retailer of any of the articles enumerated in the regulations in this part. The provisions of law quoted above embody the rules for determining the sale price, which is the basis of the tax. In general, this should be the retailer's actual price at the point of distribution or sale. In determining the sale price, for tax purposes, there shall be included any charge incident to placing the article in condition packed ready for shipment. There shall be excluded (a) the amount of the tax, whether or not billed as a separate item, and (b) (subject to the provisions of § 320.8) transportation, delivery, insurance, installation, or other charges (not required by the preceding sentence to be included). There may also be excluded the amount of any retail sales tax imposed by any State or Territory or political subdivision of the foregoing, or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, but such amount shall be excluded only if stated as a separate charge (and in the exact amount of tax) on the invoice, bill, or other memorandum of sale rendered to the purchaser.

Where articles are sold on credit, the tax is to be returned and paid to the collector of internal revenue during the month succeeding that in which the sales are made, even though the price may not be paid to the retailer until a later date.

The sale price of any article covered by the regulations in this part may be payable in whole or in part in property. Thus, where a dealer accepts an article in trade as partial or full payment for the purchase price of any taxable article, the amount allowed for the article accepted in trade but not less than the fair market value thereof, must be included in the determination of the tax due on such sale. If the article accepted in such a "trade-in" transaction is one covered by the regulations in this part, the resale thereof will be subject to the tax.

The giving of a premium in consideration of the return of wrappers, labels, coupons, trading stamps, or other scrip, delivered or sold in connection with the sale of a commodity, constitutes a taxable transaction, and the person so giving the premium is considered to be one who sells at retail.*

§ 320.6 *Charges for coverings, containers, etc., generally.* Any charges for coverings, containers, etc., incident to placing an article in condition packed ready for shipment shall be included as a part of the sale price for the purpose of computing the tax. Therefore, the amount paid for the article and its covering or container is the basis for computing the tax even though a separate charge for such covering or container is billed on the invoice.*

§ 320.7 *Exclusion of tax—(a) Federal tax.* The tax imposed by Chapter 19 of the Internal Revenue Code on the retailer's sale of an article is by statute not a part of the taxable price of the article. Where the Federal tax is billed as a separate item, the amount thereof should be excluded in determining the sale price upon which the tax is to be computed. Where the Federal tax is not billed as a separate item, it will be presumed that the amount of the tax is included in the price charged for the article, and such amount will be excluded by an appropriate computation in determining the taxable sale price.

Thus, where an article is sold for \$100 and an additional sum of \$10 is billed as tax, it is clear that \$100 is the taxable sale price and \$10 the amount of tax due thereon at the prescribed rate of 10 per cent. Where the article is sold for \$100 with no separate billing or indication of the amount of the tax, it will be presumed that the tax is included in the \$100, and the tax computed accordingly on the basis of a sales price exclusive of the tax. Since the rate of tax is 10 per cent, the billed price of \$100 represents the taxable sales price (100 per cent) plus the tax due thereon (10 per cent), or 110 per cent. Since 10 per cent is $\frac{1}{11}$ of 110 per cent, the tax may be computed on the basis of a sales price exclusive of the tax by taking $\frac{1}{11}$ of the billed price.

(b) *State and local taxes.* A retail sales tax imposed by a State, or Territory, or political subdivision of the foregoing, or by the District of Columbia, may be excluded from the taxable price of an article only when billed as a separate item; if not so billed, the amount of such tax must be included in the taxable sales price.

This exclusion relates to State or local taxes imposed with respect to the sale of the article, regardless of whether the vendor or vendee is liable for payment of the tax. However, it does not include other levies, as for example, a State income tax payable by a retailer upon the net profits derived from his operations.

Where the amount of any State or local retail sales tax is excluded from the taxable sales price of an article, the taxpayer must retain a copy of the invoice, bill, or other memorandum of sale rendered the purchaser or other evidence satisfactory to the Commissioner to show that the amount of the retail sales tax so excluded was stated as a separate charge.*

§ 320.8 *Exclusion of charges for transportation, delivery, etc., generally.*

Charges for transportation, delivery, insurance, installation, and other charges actually incurred in connection with the delivery of an article to a purchaser pursuant to a bona fide sale, are to be excluded in computing the tax.*

§ 320.9 *Discounts and adjustments, generally.* Readjustments in sale price (such as allowable discounts, rebates, bonuses, etc.) can not be anticipated. The tax must be based upon the original price unless the readjustments have actually been made prior to the close of the month in which the tax upon the sale is returned. However, if the price upon which the tax was computed is subsequently readjusted, a proper credit may be taken against the tax due on a subsequent return, or an appropriate claim for refund may be filed. (See § 320.66.)

Commissions to agents, or allowances, payments, or adjustments made to persons other than the retailer's vendee are not deductible from the sale price under any conditions for purposes of computing the tax.*

SEC. 2405. LEASES, CONDITIONAL SALES, ETC.
In the case of (a) a lease, (b) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments, or (c) a conditional sale, there shall be paid upon each payment with respect to the article that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment. No tax shall be imposed under this chapter on the sale of any article taxable under section 2400 or section 2401 if with respect to such article the lease, contract for sale, or conditional sale was made, delivery thereunder was made, and a part of the consideration was paid, before October 1, 1941.

§ 320.10 *Basis of tax on leases, installment sales, and conditional sales.* Special provision is made in the law for computing taxes due in the case of leases of articles and installment and so-called conditional sales. The term "lease" means a continuous right to the possession or use of a particular article for a period of time. It does not include the use of an article merely as occasion demands, but the contract must give the lessee the right to possess or use the article, without interruption, for a period of time.

Where articles are leased by the retailer, or sold under an installment-payment contract with title reserved, or under a conditional-sale contract with payments to be made in installments, a proportionate part of the total tax shall be paid upon each payment made with respect to the article. Such taxes are to be returned and paid to the collector during the month following that in which such payment is made.

In the case of articles taxable under sections 2400 relating to jewelry, etc., and 2401 relating to furs, the tax does not apply to payments where (1) the lease, or installment sale, or conditional sale contract, (2) delivery of the article under the contract, and (3) payment of a part of the consideration, were made prior to October 1, 1941.*

SUBPART C—GENERAL EXEMPTIONS

Sales to States, etc.

SEC. 2406. TAX-FREE SALES.

Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax under this chapter shall be imposed with respect to the sale of any article—

(a) for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

§ 320.20 *Sales to States or political subdivisions thereof and to the United States.* No tax attaches to articles sold by the retailer direct to the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia, for its exclusive use, provided the exempt character of the sale is established as required by the regulations in this part.

To establish the right to exemption from tax where the sale of an article is made by the retailer direct to the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia, for its exclusive use, it is necessary that (a) the retailer have definite knowledge prior to or at the time of sale, that the article is purchased for such use, and (b) he obtain from an authorized officer of the United States, the State, Territory of the United States, political subdivision, or District of Columbia, as the case may be, and retain in his possession a properly executed exemption certificate in the form prescribed by this section.

Where the certificate is obtained subsequent to the sale but prior to the time the retailer is required to file a return covering taxes due for the month during which the sale was made he should include the tax on such sale in his return for that month, in the item "Total tax due," but may deduct an amount equivalent to the tax applicable to such sale and pay the net tax resulting, making appropriate explanation either on the face of the return or on a rider attached thereto. If the certificate is not so obtained, the retailer must include the tax on such sale in his return for the month in which the sale was made. However, if the certificate is later obtained a claim for refund of tax paid may be filed on Form 843, or a credit taken upon a subsequent return, but such action must be taken within the 4-year period of limitation prescribed by section 3313.

The certificate required by this section must include an agreement that if the articles covered thereby are used otherwise than for the exclusive use of the United States, the State, Territory, political subdivision, or the District of Columbia, as the case may be, or if any of such articles are resold to employees or others, a responsible officer of the United States, State, Territory, or political subdivision, or the District of Columbia, as the case may be, will report and pay the tax on such sales to the collector for the district in which the sale is made.

The certificate required by this section shall be in substantially the following form:

EXEMPTION CERTIFICATE

(For use by United States, States, Territories, or political subdivisions thereof, or the District of Columbia.)

_____, 19____
(Date.)

The undersigned hereby certifies that he is _____
(Title of Officer.)

of _____
(United States, State, Territory, or political subdivision, or District of Columbia.)

_____ and that he is authorized to execute this certificate and that the article or articles specified in the accompanying order or on the reverse side hereof, are purchased from _____ for the exclusive use of _____ of _____
(Name of company.) (Governmental unit.) (United States, State, Territory, or political subdivision, or District of Columbia.)

It is understood that the exemption from tax in the case of sales of articles under this exemption certificate to the United States, States, etc., is limited to the sale of articles purchased for their exclusive use, and it is agreed that if articles purchased tax free under this exemption certificate are used otherwise or are sold to employees or others, such fact will be reported and tax paid by me to the collector of internal revenue for the district in which the sale was made. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a fine of not more than \$10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution.

(Signature.)

(Title of officer.)

If it is impracticable to furnish a separate certificate for each order or contract, a certificate covering all orders between given dates (such period not to exceed a month) will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained as provided in § 320.62. If, upon inspection, it is discovered that a retailer's records with respect to any sale claimed to be tax free do not contain a proper certificate, as outlined above, with supporting invoices and such other evidence as may be necessary to establish the exempt character of the sale, tax shall be payable by the retailer on such sale.

The articles covered by the exemption certificate must be fully identified as to nature, quantity, and date of sale.*

Exports, and Shipments to Possessions of the United States

[SEC. 2406. TAX-FREE SALES.]

[Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax under this chapter shall be imposed with respect to the sale of any article.]

(b) for export, or for shipment to a possession of the United States, and in due course so exported or shipped.

§ 320.21 *Sales for export.* To exempt from tax a sale for export it is necessary that two conditions be met, namely,

(a) that the article be identified as having been sold by the retailer for export

and (b) that it be exported in due course.

In order to establish exemption from tax in the case of the sale of a taxable article for export it is necessary that the retailer maintain adequate records and have in his possession documentary evidence showing that the article was so sold.*

§ 320.22 *Shipments to possessions of the United States.* The same provisions as relate to sales for export and proof of exportation will apply to sales for shipment to a possession of the United States if the articles are in due course so shipped. (See §§ 320.1 and 320.21.)

This exemption does not apply with respect to sales of articles for shipment to the Territories of Alaska and Hawaii for the reason that these Territories are by a statutory definition included in the term "United States." (See section 3797 (a) (9).)*

SUBPART D—TAX ON JEWELRY, ETC.

SEC. 2400. TAX ON JEWELRY, ETC.

There is hereby imposed upon the following articles sold at retail a tax equivalent to 10 per centum of the price for which so sold: All articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof; watches and clocks and cases and movements thereof; gold, gold-plated, silver, silver-plated or sterling flatware or hollow ware; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars. The tax imposed by this section shall not apply to any article used for religious purposes, to surgical instruments, or to frames or mountings for spectacles or eyeglasses, or to a fountain pen if the only parts of the pen which consist of precious metals are essential parts not used for ornamental purposes.

§ 320.30 *Scope of tax.* The tax attaches to the sale by the retailer of articles:

(a) All articles commonly or commercially known as jewelry, whether real or imitation;

(b) Pearls, precious and semi-precious stones and imitations thereof;

(c) All other articles made of, ornamented, mounted or fitted with, precious metals or imitations thereof;

(d) Articles specifically mentioned in the Code, such as watches, clocks, cases and movements thereof; gold, gold-plated, silver, silver-plated or sterling flatware or hollow ware; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars.*

§ 320.31 *Jewelry.* Jewelry in general includes articles designed to be worn on the person or apparel for the purpose of adornment and which in accordance with custom or ordinary usage are worn so as to be displayed, such as rings, chains, brooches, bracelets, cuff buttons, necklaces, earrings, heads, etc. The tax is imposed on the sale of any of such articles at retail, regardless of the substance of which made and without reference to their utilitarian value or purpose, unless for a purpose specifically exempted by law. The term "jewelry"

ordinarily does not include articles designed to be carried in the hand or hung over the arm, such as canes, bags and purses. Likewise, many things designed to be carried in the hand or worn concealed about the person, such as vanity cases, mesh bags, cigarette cases, eyeglass cases, and pencils, do not fall within the category of jewelry, as defined above, but such articles are taxable under this section of the Code when made of, or ornamented, mounted or fitted with, precious metals or imitations thereof (see § 320.33). It is immaterial under the Code whether the jewelry is real or imitation.*

§ 320.32 *Pearls, precious and semi-precious stones, and imitations thereof.* The tax is imposed on the sale at retail of all pearls and precious or semi-precious stones, regardless of whether such pearls, precious or semi-precious stones are real or imitations, cut or uncut, whether drilled, mounted, or matched, and whether temporarily or permanently strung and whether with or without clasps. Beads are subject to the tax as jewelry if the beads are strung ready for use. The sale of loose beads is not subject to the tax unless such beads are pearls, precious or semi-precious stones, or imitations thereof.*

§ 320.33 *Articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof.* The tax is imposed on the sale at retail of any article, as distinguished from those articles commonly or commercially known as jewelry as described in § 320.31, which are made of, or ornamented, mounted or fitted with, precious metals or imitations thereof. The term "precious metals" includes platinum, gold, silver, and other metals of similar or greater value. The term "imitations thereof" includes platings and alloys of such metals. Any article, for example, photograph frames, book ends, ash trays, vanity cases, mesh bags, cigarette cases, etc., glassware, china, pottery, and like articles, which is ornamented with gold, silver, or other precious metals or imitations thereof, is subject to the tax.

Purses, handbags, etc., with frames, snaps, catches, buckles, or clips, etc., made of, ornamented, mounted or fitted with, precious metals or imitations thereof are taxable even though such fittings serve a utilitarian purpose.

Examples of other articles which become subject to the tax when ornamented, mounted or fitted with, precious metals or imitations thereof are umbrellas, walking sticks, cigarette lighters, shoe buckles, etc. If the only parts of a fountain pen which consists of precious metals are essential parts not used for ornamental purposes such a fountain pen is not subject to the tax. However, if a fountain pen is otherwise ornamented, mounted or fitted with, precious metals or imitations thereof it will be subject to tax when sold by the retailer.*

§ 320.34 *Watches and clocks.* The tax is imposed on the sale at retail of watches and clocks or cases and move-

ments therefor. The term "watches and clocks" includes all time measuring devices whether actuated by weights, springs or electrical energy.*

§ 320.35 *Gold, gold-plated, silver, silver-plated or sterling flatware or hollow ware.* The tax is imposed on the sale at retail of any gold, gold-plated, silver, silver-plated or sterling flatware or hollow ware. The terms "flatware or hollow ware" includes all articles commonly or commercially known and sold as such in the trade. Any gold, gold-plated, silver, silver-plated, or sterling article which is not so known or sold in the trade as flatware or hollow ware, is subject to the tax as an article made of, ornamented, mounted or fitted with precious metals or imitations thereof.*

§ 320.36 *Opera glasses, lorgnettes, marine glasses, etc.* The tax is imposed on the sale at retail of opera glasses, lorgnettes, marine glasses, field glasses, or binoculars. These articles are specifically enumerated in the Code and the terms used are held to include only those which are portable instruments. Articles known as marine glasses, field glasses, and similar optical instruments which by reason of their size or weight are ordinarily mounted upon tripods or other bases, are not subject to the provisions of section 2400. Such articles are taxable under section 3406 (a) (9) relating to optical equipment, as added by section 551 of the Revenue Act of 1941.*

§ 320.37 *Exemptions.* Under the specific provisions of the Code the tax does not attach to the sale of surgical instruments, or frames or mountings for spectacles or eyeglasses, or to articles used for religious purposes even though made of, or ornamented, mounted or fitted with, precious metals or imitations thereof.

The phrase "articles used for religious purposes" means articles of a description ordinarily taxable but which are commonly used in religious devotion. However, an article commonly used for non-religious purposes may be sold tax free if purchased from the retailer for use exclusively for religious purposes.

In order for a retailer to establish his right to exemption from tax in the case of a sale of an article for religious purposes such retailer must have in his possession an affidavit from the consumer certifying that the article was purchased solely for such purposes.

In the case of fitted toilet cases, etc., taxable under section 3406 (a) (2), relating to luggage, as added by section 551 of the Revenue Act of 1941, the toilet case will not be subject to the tax when sold by the retailer. However, the retailer will be held liable for the tax on the sale of any items of jewelry within the scope of this section which are contained therein. The tax on such items is to be based on the usual price for which they are sold by retailers to consumers. The toilet cases will be subject to tax under section 3406 (a) (2) when sold by the manufacturer.*

§ 320.38 *Rate of tax.* The tax is payable by the retailer at the rate of 10 per cent of the price for which such articles are sold as determined under §§ 320.5 to 320.10 inclusive and under § 320.64.*

SUBPART E—TAX ON FURS

SEC. 2401. TAX ON FURS.

There is hereby imposed upon the following articles sold at retail a tax equivalent to 10 per centum of the price for which so sold: Articles made of fur on the hide or pelt, and articles of which such fur is the component material of chief value.

§ 320.40 *Scope of tax.* The tax attaches to the sale by the retailer of certain articles classified as follows:

- (a) Articles made of fur on the hide or pelt; and
- (b) Articles of which such fur is the component material of chief value.

The tax does not apply to sales of raw fur.

The tax is not confined to the sale of fur articles used as wearing apparel but applies to sales of any fur article suitable for any use, such as fur rugs, fur robes, etc.

The tax applies to the sale of any article made of fur on the hide or pelt, or of any article where the component material of chief value of such article is fur on the hide or pelt.

The component material of chief value of any article, for the purpose of these regulations, is that component material which is not exceeded in value by any other single component.

Where fur is a component material of an article and exemption with respect to the sale of such article is claimed on the ground that fur is not the component material of chief value, the retailer must maintain adequate records or have in his possession proper documentary evidence to establish to the satisfaction of the Commissioner that the fur is not the component material of chief value. In the absence of such documentary evidence the tax must be paid with respect to the sale of such article at retail.*

§ 320.41 *Rate of tax.* The tax is payable by the retailer at the rate of 10 per cent of the price for which the articles are sold as determined under §§ 320.5 to 320.10 inclusive and under § 320.64.*

SUBPART F—TOILET PREPARATIONS, ETC.

SEC. 2402. TAX ON TOILET PREPARATIONS.

(a) *Tax.* There is hereby imposed upon the following articles sold at retail a tax equivalent to 10 per centum of the price for which so sold: Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous, toilet powders, and any similar substance, article, or preparation, by whatsoever name known or distinguished; any of the above which are used or applied or intended to be used or applied for toilet purposes.

§ 320.50 *Scope of tax.* The tax attaches to the sale by the retailer of the articles enumerated in section 2402 and similar articles commonly or commercially known as toilet articles, which are used or applied, or intended to be used or

applied, for toilet purposes. Any article advertised or held out for toilet purposes, or for any purpose for which the articles enumerated in the law are customarily used, will be subject to the tax regardless of the name by which it may be known or distinguished. The tax attaches to the sale by the retailer of any preparation which is used or applied or intended to be used or applied for toilet purposes or used in connection with the bath or care of the body, or applied to the clothing as a perfume or to the body as a toilet article. The fact that any particular product, preparation, or substance coming within the scope of this law may have, or be held out to have, a medicinal, stimulating, remedial, or curative value does not exempt it from the tax, if it is used, or held out for use, as an adjunct to the toilet or for toilet purposes.

Shampoo oils and liquids of the so-called "soapless" variety are taxable as toilet preparations. Witch hazel; bay rum; bath crystals and salts; deodorants for personal use; hair and scalp lotions for treatment of falling hair, dandruff, etc.; foot powders; face creams and lotions; hand lotions; lipsticks; rouges; face powders; eyebrow and eyelash mascara; eye shadow creams; eau de cologne; brilliantine and hair oils; baby oils and baby powders; oils, creams, etc., for the prevention of sunburn; rose water and glycerine; breath sweetening pellets other than chewing gum or candy; sachets; stain removers for use in removing ink, berry and other stains from the body; nail lacquers, cuticle removers and softeners, polish removers, etc.; depilatories; eye washes; after shaving lotions; theatrical make-up; hair bleaches and dyes; permanent waving solutions; toilet pumice; styptics; pore cleansers; and suntan oils, are examples of the type of article taxable under this section but the exclusion from this list of an article otherwise within the scope of the articles enumerated in section 2402 will not operate to exclude such article from the taxable class.

In the case of fitted toilet cases, etc., taxable under section 3406 (a) (2) relating to luggage, as added by section 551 of the Revenue Act of 1911, the toilet case will not be subject to the tax when sold by the retailer. However, the retailer will be held liable for the tax on the sale of any toilet preparations contained therein, such tax to be based on the usual price for which such articles are sold by the retailer. The toilet cases will be subject to the tax imposed by section 3406 (a) (2) when sold by the manufacturer, producer or importer.*

§ 320.51 *Rate of Tax.* The tax is payable by the retailer at the rate of 10 percent of the price for which the articles are sold as determined under §§ 320.5 to 320.10, inclusive and under § 320.64.*

[SEC. 2402. TAX ON TOILET PREPARATIONS.] (b) *Beauty parlors, etc.* For the purposes of subsection (a) the sale of any article described in subsection (a) to any person operating a barber shop, beauty parlor, or similar establishment shall be considered a sale at retail; resale by such person

shall be subject to tax as a sale at retail, but there shall be credited against the tax payable by such person with respect to such resale the amount of tax paid on the sale to such person.

§ 320.52 *Sales to beauty parlors, etc.* Any person who sells toilet preparations taxable under section 2402 (a) to another person operating a barber shop, beauty parlor or similar establishment shall be deemed to have sold such articles at retail and must make a return and pay tax on all such sales as provided in § 320.60. In any case where the operator of the barber shop, beauty parlor or similar establishment resells the articles at retail, such operator will be liable for the tax imposed by section 2402 (a) on the resale. However, in determining the tax to be paid by the operator a credit may be taken in the amount of the tax paid by the operator's vendor under section 2402 (a). (See § 320.65.)*

SUBPART C—MISCELLANEOUS PROVISIONS

Administrative Provisions, Monthly Returns and Payment of Tax

SEC. 2403. RETURN AND PAYMENT OF RETAILERS' EXCISE TAXES.

(a) Every person who sells at retail any article taxable under this chapter shall make monthly returns under oath in duplicate and pay the taxes imposed by this chapter to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

Applicability of Administrative Provisions

SEC. 2408. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 2711. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter.

Records, Statements, and Special Returns

SEC. 2709. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements,

or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SEC. 3652. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal Revenue Personnel.*—(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.* Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3330. *WITNESSING OF RETURNS IN LIEU OF OATH.* The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

Examination of Books and Witnesses

SEC. 3614. *EXAMINATION OF BOOKS AND WITNESSES.* (a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

(a) *Authority of collector.* If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, wilfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) *To make return.* Make a return, or
(2) *To amend collector's return.* Amend any return made by a collector or deputy collector.

(c) *Legal status of return.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector,

lector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

§ 320.60 *Returns.* Each person required to report a tax on the sale of any of the articles covered by the regulations in this part must make a return on Form 728A in accordance with the instructions thereon. The return must be made in duplicate under oath for each calendar month and must be verified before an officer duly authorized to administer oaths. If the amount of the tax is \$10 or less, the return may be signed or acknowledged before two witnesses instead of under oath. Such return, together with the tax, must be filed with the collector of the district in which is located the principal place of business of the taxpayer (or, if he has no principal place of business in the United States, with the collector at Baltimore, Md.), on or before the last day of the month following that for which it is made.

When the last day of the month in which the return is due falls on Sunday or a legal holiday the return may be filed with the collector of internal revenue, or his authorized representative on the next secular or business day. A return must be forwarded to the collector for each month whether or not any liability has been incurred for that month. If a retailer ceases business the last return should be marked "Final return".

§ 320.61 *Payment of taxes.* All taxes are due and payable to the collector of internal revenue, without assessment by the Commissioner or notice from the collector, at the time fixed for filing the return. If the tax is not paid when due there shall be added as part of the tax interest at the rate of 6 per cent per annum from the time the tax became due to the actual date of payment or assessment, whichever is prior. For provisions with respect to interest generally, including interest on assessments, see § 320.67.*

§ 320.62 *Records.* Every person required to file a return and pay tax on the sale of an article at retail, shall keep on file at his principal place of business, or some other convenient or safe location, accurate records and accounts of all transactions. Evidence with respect to sales at retail for export, or shipment to a possession of the United States, and sales at retail to States or political subdivisions thereof, upon which no tax is due, must be maintained. (See §§ 320.20, 320.21, and 320.22.)

The records shall contain sufficient information to enable the Commissioner to determine whether the correct amount of tax has been paid. Such records shall at all times be open for inspection by internal-revenue officers, and shall be maintained for a period of at least four years from the date the tax became due or, in the case of tax-free sales, for a period of at least four years from the last

day of the month following the month in which the sale was made.*

Jeopardy Assessments

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3630.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 320.63 *Jeopardy assessment.* Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by requiring an immediate return and collection of the tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of taxes due and the period involved, so that the Commissioner can immediately assess the tax together with all penalties and interest due. Such tax, penalties, and interest will, upon assessment, become immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof in full.

If a taxpayer is not actually in default in filing returns or in paying any tax under the internal-revenue laws, the collection of the whole or any part of the amount of such jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, collection of which is stayed, at the time at which such amount would normally be due.

Upon refusal to pay, or failure to pay or give bond, the collector shall proceed immediately to collect the tax, penalty, and interest by distraint, without regard to the 10-day period after notice and demand prescribed in § 3690.*

Credits and Refunds

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) *To taxpayers.*—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without au-

thority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

(3) *Date of allowance.* Where the Commissioner has signed a schedule of over-assessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, or any prior revenue act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(1) *Credits.* In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, 42 Stat. 22, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(c) *Additional assessment defined.* As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, 43 Stat. 253, or by any subsequent Revenue Act.

SEC. 3772. SUITS FOR REFUND. (a) *Limitations.*—(1) *Claim.* No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) *Time.* No such suit or proceeding shall be begun before the expiration of six

months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) *Reconsideration after mailing of notice.* Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) *Protest or duress.* Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—

(a) *Expiration of period for filing claim.* If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) *Period against United States.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770 (a) (2).

(b) *Period against taxpayer.* A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

SEC. 2407. CREDIT AND REFUNDS.

(a) A credit against tax under this chapter, or a refund, may be allowed with respect to an article, when the price on which the tax was based is readjusted by reason of return or repossession of the article, or by a bona fide discount, rebate, or allowance, in the amount of that part of the tax proportionate to the part of the price which is refunded or credited.

(b) No overpayment of tax under this chapter shall be credited or refunded, in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the purchaser, or (2) that he has repaid the amount of the tax to the purchaser of the article, or unless he files with the Commissioner written consent of such purchaser to the allowance of the credit or refund.

[SEC. 2402. TAX ON TOILET PREPARATIONS.]

(b) *Beauty parlors, etc.* For the purposes of subsection (a) the sale of any article described in subsection (a) to any person operating a barber shop, beauty parlor, or similar establishment shall be considered a sale at retail; resale by such person shall be subject to tax as a sale at retail, but there shall be credited against the tax payable by such person with respect to such resale the amount of tax paid on the sale to such person.

§ 320.64 *Returned goods; price adjustments.* A retailer may be allowed a credit or refund of tax under section 2407 (a) with respect to any article where the price on which the tax was based is readjusted by reason of return or repossession of the article, or by a bona fide discount, rebate, or allowance. The allowable credit or refund is limited in amount to that part of the tax which is proportionate to the part of the sale price refunded or credited by the retailer to the purchaser.

A credit or refund of tax is not allowable with respect to an article returned as a "trade-in" in the purchase of another article. In such case, there is no adjustment within the meaning of section 2407 (a) of the price at which the first article was sold. Instead, the sale of the second article is a separate and distinct transaction in which the first article is merely applied in part payment of the purchase price. Accordingly, the full amount of the tax due upon the sale of the second article is payable without any allowance or offset for the tax paid on the sale of the first article. (See § 320.5)

The application of the credit or refund allowable under section 2407 (a) is illustrated by the following examples:

Example 1. If because of a defect, or a failure under a warranty, or some other like reason, an article is returned to the retailer from whom originally purchased and the entire purchase price, including tax, is credited or refunded to the purchaser, the retailer may claim a credit or refund of the full amount of the tax originally paid by him on the sale of such article.

Example 2. If the article mentioned in the first example is not returned but instead the retailer makes an adjustment by crediting or refunding a percentage, such as 25 per cent of the purchase price, including tax, to the purchaser, the retailer may claim a credit or refund of such percentage, that is, 25 per cent of the tax originally paid by him on the sale of the article.

For provisions relating to credits and refund generally, see § 320.66.*

§ 320.65 *Beauty parlors, etc.* Whenever any person operating a barber shop, beauty parlor, or similar establishment becomes liable for tax under section 2402 (a) by reason of his resale of toilet preparations purchased by him tax paid under such section, a credit against the tax due on the resale may be allowed in the amount of the tax paid by the operator's vendor under section 2402 (a). In no case shall the amount of the credit exceed the amount of tax due from the operator.*

§ 320.66 *Credits and refunds generally.* (a) If a person overpays the tax due he may either file a claim for refund on Form 843 or take credit for such overpayment against the tax due the Government on a subsequent monthly return. A complete statement of the facts involving the overpayment must be attached either to the claim or to the return on which the credit is claimed.

(b) Every claim for refund must be supported by evidence showing (1) the name and address of the person who paid to the United States the tax of which refund is claimed, (2) the date of payment, and (3) the amount of such tax. A credit taken on a return must be supported by evidence of the same character. If it is impossible to furnish such evidence at the time when the credit is taken, a statement to that effect must be submitted with the return in which the credit is taken. The evidence supporting such credit must be filed with the collector within 30 days after the date on which the return is filed. If the required evidence is not so filed within that period, the amount of the credit will be disallowed and assessment of the tax resulting from the disallowance will be made on the current assessment list.

(c) No credit or refund shall be allowed whether in pursuance of a court decision or otherwise unless the taxpayer files a sworn statement explaining satisfactorily the reason for claiming the credit or refund and establishing (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has either repaid the amount of tax to the purchaser of the article or has secured the written consent of such purchaser to the allowance of the credit or refund. In the latter case the written consent of the purchaser must accompany the sworn statement filed with the credit or refund claim. For the purpose of the tax the "purchaser" is a person who purchases an article for consumption and not for resale. The statement supporting the credit or refund claim must also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed with the collector or Commissioner.

A complete and detailed record of each overpayment must be kept by the taxpayer for a period of at least four years from the date any credit is taken or refund is claimed.*

SEC. 3760. CLOSING AGREEMENTS.

(a) *Authorization.* The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality.* If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of

fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

Penalties and Interest

[SEC. 2403. RETURN AND PAYMENT OF RETAILERS' EXCISE TAXES.]

(b) * * * If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

SEC. 2408. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 2711. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter.

[SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.]

(d) *Additions to tax*—(1) *Failure to file return*.—In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided*, That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum; 5 per centum if the failure is for not more than 30 days, within additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud*. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

(e) *Collections of additions to tax*.—The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery*.—Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment*.—If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from

the date of such notice to the date of payment; except that in the case of income, estate or gift taxes, such penalties shall not apply and the interest for nonpayment of tax shall be such as is specifically provided by law with respect to such taxes.

§ 320.67 *Penalties and interest*. In the case of failure to file a return within the prescribed time, a certain percentage of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 5 per cent if the failure is for not more than 30 days, with an additional 5 per cent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per cent in the aggregate.

Failure to pay tax within the time fixed for filing returns causes interest to accrue automatically, without assessment of the tax by the Commissioner or notice to the taxpayer, to the actual date of payment or assessment, whichever is prior. The due date of the tax for the purpose of computing interest is the last day of the month within which the return is required to be filed and the tax paid.

Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand (Form 17), there will accrue, under section 3655, a 5 per cent penalty and interest at the rate of 6 per cent per annum computed upon the entire assessment from the date of issuance of Form 17 until date of payment. Where assessment is settled by partial payments, interest is computed at the above-prescribed rates from the date of the first 10-day notice through the date of first payment and on the balance from the next succeeding day to the date of the next payment until the assessment is paid in full.

If a claim for abatement is filed with the collector within 10 days after the date of the issuance of the first notice and demand, the 5 per cent penalty does not attach. If the assessment is not paid within 10 days after receipt of notice of rejection of the claim, the 5 per cent penalty applies. The filing of the claim does not stay the collection of interest, which continues to run for the full period that intervenes between the date of the first notice and demand and the date of payment.

If a false or fraudulent return is willfully made, the penalty under section 3612 (d) and (e) is 50 per cent of the total tax due for the entire period involved, including any tax previously paid.

Any person who willfully fails to pay any tax due, file return, or keep records, or who attempts in any manner to evade or defeat the tax, or who fraudulently uses any exemption certificate authorized by these regulations, is subject to a fine of \$10,000, or imprisonment, or both, with costs of prosecution, and is also liable to

a penalty equal to the amount of the tax not paid. These penalties apply to an officer or employee who, as such officer or employee, is under a duty to perform the act in respect of which the violation occurs, as well as to a person who fails or refuses to perform any of the duties imposed by the Code, i. e., pay the tax, make return, keep records, supply information, etc.

An internal-revenue officer discovering in the course of his duty information leading him to suspect a possible violation of any law with the enforcement of which he is not directly concerned should immediately report the matter to the Commissioner, who is authorized to communicate with the proper department involved.*

SEC. 2707. PENALTIES.

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax imposed by section 2700 (a), or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(b) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter who willfully fails to pay such tax, make such returns, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person required under this subchapter to collect, account for any pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3710. SURRENDER OF PROPERTY SUBJECT TO DISTRRAINT.

(a) *Requirement*. Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) *Penalty for violation*. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such

levy has been made, together with costs and interest from the date of such levy.

(c) *Person defined.* The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

[SEC. 3793. PENALTIES AND FORFEITURES.]

(b) *Fraudulent returns, affidavits, and claims.*—(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Persons defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 4047. PENALTIES.

(a) Disclosure of information by officers and employees of the United States—(1) *Operations of manufacturer or producer.* It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and the offender shall be dismissed from office or discharged from employment. The provisions of this paragraph shall apply to internal revenue agents as fully as to internal revenue officers.

Section 35, Criminal Code of the United States, as amended by the act approved April 4, 1938 (52 Stat., 197).

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

Misrepresentation of Tax

SEC. 3325. PENALTIES FOR FALSE STATEMENTS TO PURCHASERS REGARDING TAX.

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

SEC. 2409. PENALTY FOR REPRESENTATION THAT TAX IS NOT PASSED ON.

Whoever in connection with the sale or lease, or offer for sale or lease, of any article taxable under this chapter, makes any statement, written or oral, in advertisement or otherwise, intended or calculated to lead any person to believe that the price of the article does not include the tax imposed by this chapter, shall on conviction thereof be punished by a fine of not more than \$1,000.

Fractional Part of Cent

SEC. 3653. FRACTIONAL PARTS OF A CENT. In the payment of any tax under this title not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

Authority for Regulations

SEC. 2410. RULES AND REGULATIONS. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

§ 320.68 Promulgation of regulations. In pursuance of the provisions of the law, the foregoing regulations are made and promulgated.*

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: September 29, 1941.

D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7293; Filed, September 30, 1941;
11:30 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-939]

PART 337—MINIMUM PRICE SCHEDULE, DISTRICT NO. 17

ORDER CORRECTING COPIES OF THE ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 17 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS PRODUCED AT CERTAIN MINES IN DISTRICT NO. 17

An Order Granting Temporary Relief and Conditionally Providing for Final Relief having been issued in the above-entitled matter on August 4, 1941, 6 F. R. 4072; and

It appearing that although the original Order was correct the printed copies thereof show the minimum price for the

coals of the Mountain View Mine (Mine Index No. 486) in Size Group 2, for truck shipment, to be 494 cents per ton, whereas the correct minimum price for the coals of the Mountain View Mine in Size Group 2 for truck shipment is 495 cents per ton:

Now, therefore, it is ordered, That the copies of the Order Granting Temporary Relief and Conditionally Providing for Final Relief, dated August 4, 1941, Supplement T [§ 337.21 (General prices in cents per net ton for shipment into all market areas) 1, be, and the same hereby are corrected to the extent that the minimum price of 494 cents per ton, shown therein for the coals of the Mountain View Mine (Mine Index No. 486) in Size Group 2 for truck shipment, is changed to the minimum price of 495 cents per ton.

Dated: September 29, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7292; Filed, September 30, 1941;
10:12 a. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER VI—SELECTIVE SERVICE SYSTEM

ORDER AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF MARYLAND TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of Maryland to direct any local board in the State of Maryland to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of Maryland will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice, as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of Maryland shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

SEPTEMBER 27, 1941.

[F. R. Doc. 41-7253; Filed, September 23, 1941;
1:54 p. m.]

ORDER AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF THE DISTRICT OF COLUMBIA TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of the District of Columbia to direct any local board in the District of Columbia to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of the District of Columbia will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved, and no registrant shall be ordered to report for induction on less than 10 days' notice, as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of the District of Columbia shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

SEPTEMBER 27, 1941.

[F. R. Doc. 41-7260; Filed, September 29, 1941; 1:54 p. m.]

ORDER AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF VIRGINIA TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of Virginia to direct any local board in the State of Virginia to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of Virginia will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10

days' notice, as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of Virginia shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

SEPTEMBER 27, 1941.

[F. R. Doc. 41-7261; Filed, September 29, 1941; 1:54 p. m.]

[No. 29]

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of Paragraph 163 and Appendix A¹ to Volume One of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

¹ 5 F. R. 3785.

TABLE I

[Prices per pound, ex seller's warehouse]

Type	Grade..... Percentage even- ness.....	E 73	D 78	O 81	B 83	A 85	AA 87	AAA 90	Special AAA 92	Special AAA 93	Special AAA 94	Special AAA 95
DENIER												
Japan, White, Ivory, and Cream. ¹	9-11.....	\$4.31	\$4.33	\$4.35	\$4.37	\$4.40	\$4.43	\$4.49	\$4.53	\$4.68	\$4.78	\$4.88
	10-12.....	4.21	4.23	4.25	4.27	4.30	4.33	4.39	4.48	4.68	4.68	4.78
	11-13.....	4.06	4.08	4.10	4.12	4.15	4.18	4.24	4.33	4.43	4.53	4.63
	12-14.....	3.11	3.13	3.15	3.17	3.20	3.23	3.29	3.33	3.48	3.68	3.69
	13-15 and 14-16.....	3.06	3.08	3.10	3.12	3.15	3.18	3.24	3.33	3.43	3.63	3.63
	15-17 to 18-20 inc.....	3.04	3.06	3.08	3.10	3.13	3.16	3.22	3.31	3.41	3.61	3.61
	20-22 to 30-32 inc.....	3.00	3.02	3.04	3.07	3.10	3.15	3.20	3.29	3.39	3.49	3.69
	44-44, 41-43 and 42-44.....	3.00	3.02	3.04	3.07	3.10	3.30	3.35	3.44	3.54	3.64	3.74
	60-66, 60-80, 62-64 and 63-85.....	3.00	3.02	3.04	3.07	3.10	3.15	3.20	3.29	3.39	3.49	3.69
	Japan, Yellow, ¹ And Italian, Yel- low and Persian White.....	2.95	2.97	2.99	3.02	3.05	3.10	3.15	3.24	3.24	3.44	3.64
	20-22 to 30-32, inc. 40-44.....	2.95	2.97	2.99	3.02	3.05	3.25	3.30	3.39	3.49	3.69	3.69

¹ Any Japan silk of undesignated grade (i. e., percentage evenness), shall sell at a price not exceeding 10 cents per pound below the Grade E, 73 percent evenness, price for its denier.

TABLE II

[Prices per pound, ex seller's warehouse]

Type	Grade..... Percentage Evenness.....	G 63	F 68	E 73	D 78	O 81	B 83	A 85	AA 87	AAA 90	Special AAAA 92	Special AAA 93	Special AAA 94	Special AAA 95
DENIER														
China, White and Cream, ¹ Re-Reeled. ²	9-11.....	\$4.15	\$4.25	\$4.31	\$4.38	\$4.43	\$4.50	\$4.60	\$4.70	\$4.80	\$4.90	\$5.00	\$5.10	\$5.20
	10-12.....	4.05	4.15	4.21	4.28	4.33	4.40	4.50	4.60	4.70	4.80	4.90	5.00	5.10
	11-13.....	3.90	4.00	4.06	4.13	4.18	4.25	4.35	4.45	4.55	4.65	4.75	4.85	4.95
	12-14.....	2.95	3.05	3.11	3.18	3.23	3.30	3.40	3.50	3.60	3.70	3.80	3.90	4.00
	13-15 to 18-20 inc.....	2.90	3.00	3.06	3.13	3.18	3.25	3.35	3.45	3.55	3.65	3.75	3.85	3.95
	20-22 to 30-32 inc.....	2.80	2.90	2.95	2.97	2.99	3.07	3.15	3.22	3.35	3.45	3.55	3.65	3.75
	40-44, 41-43, and 42-44.....	2.80	2.90	2.95	2.97	2.99	3.07	3.15	3.37	3.60	3.60	3.70	3.80	3.90
	13-15 to 18-20 inc.....	2.80	2.90	3.06	3.03	3.08	3.15	3.25	3.35	3.45	3.55	3.65	3.75	3.85
	20-22 to 30-32 inc.....	2.73	2.83	2.88	2.90	2.92	3.00	3.08	3.15	3.28	3.38	3.48	3.58	3.68
	China, Yellow ¹ Re-Reeled. ²													

¹ Any China silk of undesignated grade (i. e., percentage evenness) shall sell at a price not exceeding 75 cents per pound below the Grade G, 63 percent evenness, price for its denier.

² The prices set forth are for re-reeled China silk. Ordinary reeled China silk shall sell at prices not exceeding 5 cents per pound below the prices for re-reeled China silk for equivalent colors, deniers, and qualities.

The addition of a new form designated as DSS Form 120,² entitled "Individual Employment Data Record for Re-Employment Committeemen," effective fifteen (15) days after the filing hereof with the Division of the Federal Register.

The foregoing addition shall, effective fifteen (15) days after the filing hereof with the Division of the Federal Register, become a part of Appendix A to Volume One, Selective Service Regulations.

LEWIS B. HERSHEY,
Director.

SEPTEMBER 18, 1941.

[F. R. Doc. 41-7267; Filed, September 29, 1941; 3:31 p. m.]

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

PART 1338—SILK AND SILK PRODUCTS

Section 1338.8 of Price Schedule No. 14, Raw Silk and Silk Waste,¹ is hereby amended to read as follows:

§ 1338.8 *Appendix A, maximum prices for raw silk and silk waste.*

¹ 6 F. R. 3893.

² Filed with the original document.

TABLE III

[Prices per pound, ex seller's warehouse]

DOUBIONS, WHITE AND YELLOW

Denier:	Maximum price
40-60	\$2.00
60-80	1.95
70-90	1.90
100-120	1.85
100-150	1.85
200-250	2.00

TSATLEE SILK

	Maximum price
Extra	\$2.40
Double extra	2.55

CANTON SILK

Denier:	Maximum price
14-16	\$2.55
20-22	2.40
White Pearl chop grade	2.70

TUSSAH SILK

	Maximum price
Ordinary	\$1.60
Bleached	1.70

TABLE IV

Imported silk waste:	Maximum Price
Canton open waste	\$0.64 per lb., ex seller's warehouse.
China long waste	\$0.92 per lb., ex seller's warehouse.
Pierced cocoons	\$0.85 per lb., ex seller's warehouse.
Peignees	\$1.85 per lb., in bond, Warehouse, Port of New York.

TABLE V

Domestic silk waste:	Maximum price (per lb., f. o. b. shipping point)
Winders waste (untwisted):	
Untinted	\$0.90
Tinted	.85
Tram waste (1-5 turns per inch)	.80
Crepe or Grenadine waste (6 or more turns per inch)	.22
Cut skeins	.95

(Executive Order No. 8734, 6 F.R. 1917)

Effective September 30, 1941.

Issued this 30th day of September 1941.

LEON HENDERSON,
Administrator.[F. R. Doc. 41-7293; Filed, September 30, 1941;
11:19 a. m.]

TITLE 45—PUBLIC WELFARE

CHAPTER IV—NATIONAL YOUTH
ADMINISTRATION

[Administrative Order No. 15]

PART 402—REVISED REGULATIONS RELAT-
ING TO THE OUT-OF-SCHOOL WORK PRO-
GRAM

Sec.	
402.1	Definitions.
402.2	Hours of work for non-resident youth employees.
402.3	Earnings schedule applicable to non-resident youth employees.
402.4	Authorized adjustments in earnings schedule.
402.5	Deductions for meals.
402.6	Proportion of workers in each wage class.
402.7	Basis of payment of resident youth employees.
402.8	State youth administrator's orders.
402.9	Earnings of project supervisory employees.
402.10	Earnings of area supervisory employees.
402.11	Disability or death compensation and benefits.

Sec.

402.12	Assignment of wages.
402.13	Determination of need.
402.14	Age limits.
402.15	Capacity to perform work.
402.16	Employment affidavit and oath of allegiance.
402.17	Administration of oaths and affidavits.
402.18	Acceptance of private employment.
402.19	Assignment, classification, transfer and termination.
402.20	Illegal activities.
402.21	Effective date.

By virtue of and pursuant to the authority vested in the National Youth Administrator by the Labor-Federal Security Appropriation Act, 1942, approved July 1, 1941, the following revised rules and regulations applicable to the out-of-school work program of the National Youth Administration are prescribed:

§ 402.1 *Definitions*—(a) *Programs*. The term "out-of-school work program," as used herein, shall mean the program of work projects and area office projects prosecuted by the National Youth Administration. The term "regular program" shall mean the program of projects financed from funds appropriated to the National Youth Administration by the Labor-Federal Security Appropriation Act, 1942, under the heading "National Youth Administration." The term "defense program" shall mean the program of projects financed from funds appropriated to the National Youth Administration by the Labor-Federal Security Appropriation Act, 1942, under the heading "Youth Work Defense Program (National Defense)."

(b) *Projects*. The term "projects," as used herein, shall mean units of work approved for prosecution by the National Youth Administration and financed in whole or in part from funds appropriated to the National Youth Administration. The term "work projects" shall mean projects established to provide work experience for needy youth. The term "area office projects" shall mean projects established to assume the expenses of general supervision of work projects prosecuted in designated areas within the several states. The term "resident projects" shall mean work projects, operated under either the regular program or the defense program, which involve the maintenance of youth in resident facilities under the supervision of the National Youth Administration. The term "full-time resident projects" shall mean resident projects at which employees normally are in continuous residence during their period of assignment. The term "part-time resident projects" shall mean resident projects to which two or more shifts of youth employees are assigned for periods of fifteen days per shift per pay roll month during their period of assignment. The term "non-resident projects" shall mean work projects which do not involve the maintenance of youth in resident facilities under the supervision of the National Youth Administration.

(c) *Youth employees*. The term "youth employees," as used herein, shall mean young persons, determined to be in need, engaged upon projects, and

paid from funds authorized for the operation of such projects. The term "resident youth employees" shall mean youth employees engaged upon resident projects. The term "full-time resident employees" shall mean youth employees engaged upon full-time resident projects. The term "part-time resident employees" shall mean youth employees engaged upon part-time resident projects. The term "non-resident youth employees" shall mean youth employees engaged upon non-resident projects.

(d) *Supervisory employees*. The term "supervisory employees," as used herein, shall mean persons in supervisory positions engaged upon projects and paid by means of pay roll payments from funds authorized for the operation of such projects. The term "project supervisory employees" shall mean supervisory employees paid upon a per diem, monthly or annual salary basis to perform specified services in connection with individual work projects. The term "area supervisory employees" shall mean supervisory employees employed on area office projects and paid upon a per diem or annual salary basis.

(e) *State youth administrator*. The term "State Youth Administrator," as used herein, shall mean the person designated to administer the programs of the National Youth Administration in each of the several states except New York State, in the District of Columbia, and in each territory in which the program is operated. In New York State, the term "State Youth Administrator" shall mean (1) the person designated to administer the programs of the National Youth Administration in New York City and Nassau and Suffolk Counties, and (2) the person designated to administer the programs of the National Youth Administration in the remainder of the state.

*§§ 402.1 to 402.21, inclusive, issued under the authority contained in the Labor-Federal Security Appropriation Act, 1942, Public No. 146, 77th Cong., 1st sess., approved July 1, 1941.

§ 402.2 *Hours of work for non-resident youth employees*. Except for such projects, portions of projects, or areas as may be exempted by the National Youth Administrator, or his authorized representative, the several state youth administrators, or their authorized representatives, shall establish hours of work for non-resident projects under the regular and defense programs within a minimum of 80 hours per month and a maximum of 8 hours per day and 160 hours per month. The several state youth administrators may act as the authorized representatives of the National Youth Administrator in granting exemptions.

(a) Due to emergencies involving the public welfare, the protection of work already done on a project, or other emergency circumstances which make project operations for the established number of hours impractical; and

(b) To permit youth employees to make up time lost due to conditions which in the judgment of the state youth administrator warrant authorizing youth employees to make up lost time.*

§ 402.3 *Earnings schedule applicable to non-resident youth employees.* The schedule of monthly earnings hereinafter prescribed shall be applicable to non-resident youth employees, except in the case of:

(a) Such projects, portions of projects, or areas as may be exempted by the National Youth Administrator, or his authorized representative; and

(b) Emergency circumstances or making up lost time as provided in § 402.2.

Schedule of monthly earnings for non-resident youth employees

Wage regions	Defense program	Regular program	
		Wage Class B	Wage Class A
I ¹	\$25	\$21	\$24
II ²	24	19	22
III ³	22	17	20

¹ Region I: Alaska, California, Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York City, New York State, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin.

² Region II: Arizona, Colorado, Delaware, District of Columbia, Idaho, Iowa, Kansas, Kentucky, Maryland, Montana, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Texas, Utah, Virginia, West Virginia, Wyoming.

³ Region III: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee.

§ 402.4 *Authorized adjustments in earnings schedule.* The several state youth administrators are authorized to make adjustments of not to exceed fifty cents upward or downward in the foregoing schedule of monthly earnings for non-resident youth employees in order to avoid the computation of fractional payments of less than one cent or the assignment of hours of work which would involve partial hours during any monthly pay period.*

§ 402.5 *Deductions for meals.* The several state youth administrators are authorized to make deductions from the monthly earnings of non-resident youth employees who are furnished noonday or other meals by the National Youth Administration, provided the deduction rate does not exceed fifteen cents per employee for each meal which is furnished.*

§ 402.6 *Proportion of workers in each wage class.* Except where exemptions are issued by the National Youth Administrator or his authorized representative, at least 95% of the non-resident youth employees on the regular program within each state shall be paid in accordance with the schedule of earnings prescribed in § 402.3 for Wage Class B. Conversely, not more than 5% of the non-resident youth employees on the regular program within each state shall be paid in accordance with the schedule of earnings prescribed for Wage Class A.*

§ 402.7 *Basis of payment of resident youth employees.* Except for such projects or portions of projects as the National Youth Administrator, or his authorized representative, may hereafter exempt, the earnings rate shall be \$30 per pay roll month for full-time resident youth employees, and \$20 per pay roll month for part-time resident youth employees, with an appropriate charge for subsistence, including items such as lodging, food, sanitation, water and bathing facilities, medical and dental care, including hospitalization, essential clothing, personal laundry service, and other sundry items: *Provided*, That such subsistence charges shall be established on a basis which will permit a net payment of not less than \$8 nor more than \$12 per pay roll month to each resident employee.

Deductions for voluntary absence from duty shall be made only when youth employees are voluntarily absent during periods when they are scheduled to work. For full-time resident youth employees, such deductions shall be made in the amount of one-thirtieth of the monthly wage for each full day of voluntary absence. For part-time resident youth employees, deductions shall be made in the amount of one-fifteenth of the monthly wage for each full day of voluntary absence. The minimum deduction for any fraction of a day shall be one-fourth the deduction for a full day, and all deductions for voluntary absence during various portions of a day shall be made in multiples of one-fourth. No wage deduction shall be made against any resident youth employee for any day or days upon which the employee is not required to work.

Work schedules for youth employees on resident projects under the regular and defense programs shall be established by the state youth administrator, or his authorized representative, within the following limits:

(a) *Part-time resident projects.* Within a minimum of 80 hours per month and a maximum of 8 hours per day and 120 per month;

(b) *Full-time resident projects.* Within a minimum of 80 hours per month and a maximum of 8 hours per day and 160 per month.*

§ 402.8 *State youth administrator's orders.* Each state youth administrator is authorized and directed to issue state youth administrator's orders as follows:

(a) Wage Orders which constitute schedules of monthly earnings and assigned hours of work for each class of youth employee assigned to non-resident projects. Supplemental schedules may be issued as required to cover special determinations for individual projects, portions of projects, or for specified local areas;

(b) Subsistence Orders which designate non-resident projects at which meals are furnished to youth employees on a pay roll deduction basis and which

establish the deduction rates applicable to such projects; and

(c) Subsistence Orders which specify the items of subsistence that may be furnished at designated resident projects and which establish the deduction rates applicable thereto.*

§ 402.9 *Earnings of project supervisory employees.* Rates of pay for project supervisory employees shall be established by the state youth administrator in accordance with the rates customarily paid for work of a similar nature in the same locality. Such employees shall be compensated for their services on a per diem, monthly, or annual salary basis, subject to the following conditions:

(a) Project supervisory employees, who are required to work for periods of less than 100 hours per pay roll month, or for indefinite periods per pay roll month, shall be compensated upon a per diem basis of payment and paid for their actual days, or fractions of days, of service.

(b) Project supervisory employees, who are required to work for definite schedules of not less than 100 hours per pay roll month shall be compensated for their services upon a monthly salary basis. For such employees, deductions for voluntary absence from duty shall be made in the amount of one-thirtieth of the monthly salary for each day of voluntary absence. However, no deduction shall be made for any day or days upon which the employee is not required to work. The minimum deduction for voluntary absence from duty during any fraction of a day shall be one-fourth the deduction made for absence during a full day, and all deductions for voluntary absence during various portions of a day shall be made in multiples of one-fourth.

(c) Project supervisory employees who are required to work not less than 39 hours per week may be compensated for their services on an annual salary basis and, if appointed and compensated on this basis, shall be subject to the leave regulations prescribed for civil employees of the Federal Government.*

§ 402.10 *Earnings of area supervisory employees.* Area supervisory employees shall be compensated on a per diem or annual salary basis, in accordance with rates established by the state youth administrator.

(a) Area supervisory employees who are required to work for periods of less than 100 hours per month, or for indefinite periods per month, shall be compensated upon a per diem basis of payment and paid for their actual days, or fractions of days of service.

(b) Area supervisory employees who are required to work not less than 39 hours per week shall be compensated upon an annual salary basis and shall be subject to the leave regulations prescribed for civil employees of the Federal Government.*

§ 402.11 *Disability or death compensation and benefits.* The provisions of

the Act of February 15, 1934 (48 Stat. 351), as amended, relating to disability or death compensation and benefits, shall apply to employees under the out-of-school work program of the National Youth Administration.*

§ 402.12 *Assignment of wages.* Wages paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.*

§ 402.13 *Determination of need.* The determination that youth employees are needy may be made directly by the state youth administration or by other agencies requested by the state youth administrator to make such determinations. A youth shall be considered as needy if he is:

(a) A member of a family whose income is insufficient to provide the basic requirements of all members of the family, including the youth member, regardless of whether the family is receiving or eligible for any form of public assistance; or

(b) Without family connections and his income is insufficient to provide his basic requirements.*

§ 402.14 *Age limits.* Except for such exemptions as the National Youth Administrator, or his authorized representative, may issue to permit the employment of youth who are 16 years of age on the regular program of the National Youth Administration, no person under the age of 17 years and no person whose age is 25 years or more, except supervisory employees, may be employed upon projects financed from funds appropriated to the National Youth Administration.*

§ 402.15 *Capacity to perform work.* No person shall be employed or retained in employment if his work habits are such or his work record shows that he is incapable of performing satisfactorily the work to which he may be assigned, and no one whose physical condition is such as to make his employment dangerous to his health or safety, or to the health or safety of others, may be employed on a project. This section shall not be construed to operate against the employment of physically handicapped persons, otherwise employable, where such persons may be assigned safely to work which they can ably perform.*

§ 402.16 *Employment affidavit and oath of allegiance.* Each youth or supervisory employee, whether compensated or uncompensated for his services, shall be required to execute the following employment affidavit and oath of allegiance prior to his entrance on duty.

I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office (or employment) on which I am about to enter (or which I now occupy). So help me God. I further depose and say that

I am a citizen of the United States and that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the Government of the United States by force or violence.

§ 402.17 *Administration of oaths and affidavits.* The National Youth Administrator hereby designates employees holding the following positions in the several state youth administrations to administer the employment affidavit and oath of allegiance required by § 402.16 above, and such affidavits and other sworn statements as are required in connection with claims for injury compensation:

- (a) State Youth Administrator.
- (b) Deputy Administrator.
- (c) State Personnel Officer.
- (d) State Director of Youth Personnel.
- (e) State Director of Finance and Statistics.
- (f) Area Director.
- (g) Area Youth Personnel Officer.
- (h) Area Finance Officer.
- (i) Project Timekeeper.

The several state youth administrators, who are the authorized representatives of the National Youth Administrator within their states, are hereby authorized to designate such additional compensated or uncompensated employees as may be required for the purpose. No fee shall be charged for oaths administered by designated employees of the National Youth Administration.*

§ 402.18 *Acceptance of private employment.* Youth employees shall be expected to accept bona fide offers of public or private employment provided that:

- (a) The employee is capable of performing such work;
- (b) The wage for such employment is not less than the prevailing wage for such work in the community;
- (c) Such employment is not in conflict with established union relationships; and
- (d) Such employment provides reasonable working conditions.

No youth employee who refuses a bona fide offer of private employment under the conditions provided in this section shall be retained in employment for the period such private employment would be available. However, a worker shall be entitled to resumption of his previous employment status if he is still in need and if he has lost his private employment through no fault of his own. Youth awaiting assignment who refuse to accept private employment shall be ineligible for employment on any project for the period during which the private employment would be available.*

§ 402.19 *Assignment, classification, transfer and termination.* The state youth administrator, or his authorized representative, shall be responsible for the assignment, classification, transfer and termination of youth employees paid

from funds appropriated to the National Youth Administration.*

§ 402.20 *Illegal activities.* Under the Labor-Federal Security Appropriation Act, 1942, the activities listed below are punishable as felonies. No person shall be eligible for further employment with the National Youth Administration if he knowingly and with intent to defraud the United States:

(a) Makes any false statement in connection with any application for any project;

(b) Diverts, attempts to divert, or assists in diverting, for the benefit of any persons not entitled thereto, any funds, services or real or personal property of the National Youth Administration;

(c) Deprives, attempts to deprive, or assists in depriving any person of any of the benefits to which he may be entitled under the appropriation by means of fraud, force, threat, intimidation, boycott, or discrimination on account of race, religion, political affiliation, or membership in a labor organization.*

§ 402.21 *Effective date.* The rules and regulations in this part shall become effective at the beginning of pay roll periods on and after October 1, 1941, and shall supersede the provisions of Administrative Order No. 13¹, dated July 1, 1941, which shall be rescinded upon the effective date of this order.*

AUBREY WILLIAMS,
National Youth Administrator.

Approved:

PAUL V. McNUTT,
Federal Security Administrator.

SEPTEMBER 27, 1941.

[F. R. Doc. 41-7253; Filed, September 23, 1941; 1:07 p. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

SUBCHAPTER K—SEAMEN

[Order No. 154]

PART 132—RULES AND REGULATIONS FOR ISSUANCE OF CERTIFICATES AND CONTINUOUS DISCHARGE BOOKS

SEPTEMBER 30, 1941.

Section 138.3 *Able seaman*, is amended by the addition, after paragraph (cc) *Bays and sounds*, of a new paragraph to be known as "(ccc) *Seagoing barges*" reading as follows:

§ 138.3 *Able seaman.*

(ccc) *Seagoing barges.* Twelve months' service on deck at sea or on the Great Lakes or on the bays and sounds connected directly with the seas.

Section 138.3 *Able seaman*, is further amended by the addition at the end

* 6 F. R. 3231.

of subparagraph (6) of paragraph (d) *General* of the following:

§ 138.3 Able seaman.

Certificates issued to seamen under paragraph (ccc) shall be for "Seagoing barges—12 months" and shall be blue in color. (Secs. 1 and 7, 49 Stat. 1930, 1936; 46 U.S.C., Supp. 672, 689; R.S. 161; 5 U.S.C. 22)

[SEAL] **SOUTH TRIMBLE, Jr.,**
Acting Secretary of Commerce.

[F. R. Doc. 41-7309; Filed, September 30, 1941; 12:02 p. m.]

Notices

TREASURY DEPARTMENT.

Bureau of the Public Debt.

[1941 Department Circular No. 669]

PARTIAL REDEMPTION, BEFORE MATURITY, OF 2¾ PERCENT MUTUAL MORTGAGE INSURANCE FUND DEBENTURES, SERIES B

SIXTH CALL

SEPTEMBER 27, 1941.

To holders of 2¾ percent mutual mortgage insurance fund debentures, series B:

I. *Notice of sixth call for partial redemption before maturity, of 2¾ percent mutual mortgage insurance fund debentures, series B.* The Federal Housing Administrator, with the approval of the Secretary of the Treasury, has issued the following notice of call for partial redemption and offer to purchase with respect to 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B¹:

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; U.S.C., title 12, sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B, of the denominations and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on January 1, 1942, on which date interest on such debentures shall cease:

Denomination:	Serial Nos. (all numbers inclusive)
\$50.....	839 to 1160
\$100.....	3113 to 4048
\$500.....	1191 to 1403
\$1,000.....	4000 to 4999
\$5,000.....	248 to 328
\$10,000.....	31 to 39

The debentures first issued, as determined by the serial numbers, were selected for redemption by the Federal Housing Administrator, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1941. This does not affect the right of the holder of a

debenture to sell and assign the debenture on or after October 1, 1941, and provision will be made for the payment of final interest due January 1, 1942, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Federal Housing Administrator hereby offers to purchase any debentures included in this call at any time from October 1 to December 31, 1941, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after January 1, 1942, or for purchase prior to that date will be given by the Secretary of the Treasury.

II. *Transactions in sixth-called debentures.* 1. The debentures included in the foregoing notice of call for partial redemption on January 1, 1942, are hereby designated sixth-called 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B, and are hereinafter referred to as sixth-called debentures.

2. Transfers and denominational exchanges in sixth-called debentures will terminate at the close of business on September 30, 1941.

III. *Redemption or purchase.* 1. Holders of sixth-called debentures will be entitled to have such debentures redeemed and paid at par on January 1, 1942, with interest in full to that date, at the rate of \$13.75 per \$1,000. Interest on sixth-called debentures will cease on January 1, 1942.

2. Holders of sixth-called debentures have the privilege of presenting such debentures at any time from October 1 to December 31, 1941, inclusive, for purchase at par and accrued interest, at the rate of \$.074728 per \$1,000 per day from July 1, 1941, to date of purchase.

IV. *Rules and regulations governing redemption and purchase.* 1. The United States Treasury Department is the agent of the Federal Housing Administrator for the redemption and purchase of sixth-called debentures. In accordance with regulations adopted by the Federal Housing Administrator and approved by the Secretary of the Treasury, the assignment, redemption, and purchase of sixth-called debentures will be governed by the general regulations of the Treasury Department with respect to United States bonds and notes, so far as applicable, except as otherwise provided herein.

2. Sixth-called debentures presented for redemption on January 1, 1942, or for purchase from October 1 to December 31, 1941, inclusive, must be assigned by the registered payee or assignee thereof or by their duly constituted representatives in the form indicated in paragraph 3 hereof, and should thereafter be presented and surrendered to any Federal Reserve Bank or to the Division of Loans and Currency, Treasury Department, Washington, D. C., accompanied by appropriate written advice. (Use Form PD 1717 attached hereto.) The debentures must be delivered at the

expense and risk of the holders. (See paragraph 8 of this section.) In all cases checks in payment of principal and final interest will be mailed to the address given in the form of advice accompanying the debentures when surrendered.

3. If the registered payee or an assignee holding under proper assignment from the registered payee desires that payment be made to him, the debentures should be assigned by such payee or assignee or by a duly constituted representative to "The Federal Housing Administrator for redemption" or to "The Federal Housing Administrator for purchase," according to whether the debentures are to be presented for redemption on January 1, 1942, or for purchase prior to that date. If it is desired for any reason that payment be made to some other person without intermediate assignment, the debentures should be assigned to "The Federal Housing Administrator for redemption (or purchase) for the account of _____" inserting the name and address of the person to whom payment is to be made.

4. An assignment in blank or other assignment having similar effect will be recognized, but in that event payment will be made to the person surrendering the debenture for redemption or purchase since, under such an assignment, the debenture becomes in effect payable to bearer. Assignments in blank or assignments having similar effect should be avoided, if possible, in order not to lose the protection afforded by registration.

5. Final interest on any sixth-called debentures, whether purchased prior to, or redeemed on or after January 1, 1942, will be paid with the principal in accordance with the assignments on the debentures surrendered.

6. All assignments must be made on the debentures themselves unless otherwise directed by the Treasury Department. Detached assignments will be recognized and accepted in any particular case in which the use of detached assignments is specifically authorized by the Treasury Department. Any assignment not made upon the debenture is considered a detached assignment.

7. A sixth-called debenture registered in the name of, or assigned to, a corporation, will be paid to such corporation on or after January 1, 1942, upon an appropriate assignment for that purpose executed on behalf of the corporation by a duly authorized officer thereof. An assignment so executed and duly attested in accordance with Treasury Department regulations will ordinarily be accepted without proof of the officer's authority. In all cases coming under this provision payment will be made only by check drawn to the order of the corporation. Proof of the authority of the officer assigning on behalf of a corporation will be required, in accordance with the general regulations of the Treasury Department, in the case of assignments for purchase prior to January 1, 1942, and in case of assignments for redemp-

¹ See Federal Loan Agency, Federal Housing Administration, *in/ra*.

² Filed with the original document.

tion on or after January 1, 1942, for the account of any person other than the corporation.

8. Debentures presented for redemption or purchase under this circular must be delivered to a Federal Reserve Bank or to the Division of Loans and Currency, Treasury Department, Washington, D. C., at the expense and risk of the holder. Debentures bearing restricted assignments may be forwarded by registered mail, but debentures bearing unrestricted assignments should be forwarded by registered mail insured or by express prepaid.

9. In order to facilitate the redemption of sixth-called debentures on January 1, 1942, any such debenture may be presented and surrendered in the manner herein prescribed in advance of that date but not before December 1, 1941. Such early presentation by holders will insure prompt payment of principal and interest when due.

V. *General provisions.* 1. Any further information which may be desired regarding the redemption of sixth-called debentures under this circular may be obtained from any Federal Reserve Bank or from the Division of Loans and Currency, Treasury Department, Washington, D. C., where copies of the Treasury Department's regulations governing assignments may be obtained.

2. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to perform any necessary acts under this circular. The Secretary of the Treasury may at any time or from time to time prescribe supplemental and amendatory rules and regulations governing the matters covered by this circular, which will be communicated promptly to the registered owners of sixth-called debentures.

[SEAL] D. W. BELL,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7279; Filed, September 30, 1941;
9:49 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-983]

PETITION OF THE BITUMINOUS COAL CONSUMERS' COUNSEL FOR THE ESTABLISHMENT OF MAXIMUM PRICES FOR ALL COALS ORDER CONCERNING CERTAIN ORAL MOTIONS FOR PRODUCTION OF DATA

On September 22, 1941, at the hearing in the above-entitled matter, certain motions were made orally on behalf of District Boards 3 and 7 and Pond Creek Pocahontas Company, a code member in District 7. District Board 7 requested that if the data underlying Exhibits 20 to 25, introduced in evidence at the hearing, were made available, similar data for all mines in District 7 should also be made available. Pond Creek Pocahontas Company requested that no underlying

data be disclosed for the mines in District 7, selected for the purposes of preparing these exhibits, but that if such data were to be disclosed, similar data for all mines in District 7 also be disclosed. District Board 3 requested the disclosure of similar data for all mines in District 3.

The spot order and contract data filed in the statistical bureaus for the month of July, which these movants request be produced, cannot be made available without undue interference with the efficient administration of the Division. Moreover, the Director finds no necessity for the disclosure of such data for all mines in Districts 3 and 7. The data underlying the tabulation of spot orders and contract prices of selected producers in Districts 1-13, which constitutes Exhibit 20, are in possession of the Division and will be made available in accordance with the Statement of the Director of September 23, 1941, during the pendency of this hearing, upon written application to the Director by any party to the proceeding.

Now, therefore, it is ordered, That in so far as they request data referred to in the Statement of the Director of September 23, 1941, the motions on behalf of District Boards 3 and 7 and Pond Creek Pocahontas Company, be and they are hereby granted, subject, however, to the provisions of that Statement, and that in all other respects said motions be and they are hereby denied.

Dated: September 27, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7230; Filed, September 30, 1941;
10:06 a. m.]

DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration.

DETERMINATION OF THE SECRETARY OF AGRICULTURE, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO THE ISSUANCE OF AMENDMENT No. 3¹ TO THE ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MILK MARKETING AREA²

The Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, on March 30, 1940, and, on April 25, 1940, made effective, as of May 1, 1940, the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, and made effective, as of March 1, 1941, amendment No. 1 to said order, as amended, and made effective,

¹ 6 F. R. 4507.

² See also Title 7, Chapter IX, *supra*.

as of July 1, 1941, amendment No. 2 to said order, as amended.

There being reason to believe that amendments to said order, as amended, would tend to effectuate the declared policy of the act, notice was given, on the 25th day of July 1941, of a hearing which was held on August 1 and 2, 1941, in New York City, on August 5 and 6, 1941, in Watertown, New York, and on August 7 and 8, 1941, in Albany, New York; and at said times and places a public hearing was conducted at which all interested parties were afforded an opportunity to be heard on the proposed amendments to said order, as amended.

After said hearing the Secretary issued, on August 29, 1941, amendment No. 3 to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area, and as further amended by amendment No. 1 and amendment No. 2.

After said hearing and after the tentative approval on September 5, 1941, of a marketing agreement regulating the handling of milk in the same area in the same manner as the order, as amended, as amended by said amendment No. 1, said amendment No. 2, and said amendment No. 3, handlers of more than fifty (50) percent of the volume of milk covered by the said order, as amended, and as amended by said amendment No. 1, said amendment No. 2, and said amendment No. 3 which is produced for sale in the New York metropolitan milk marketing area, refused or failed to sign such tentatively approved marketing agreement relating to milk.

Pursuant to the powers conferred upon the Secretary of Agriculture by said act, it is hereby determined:

1. That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

2. That the issuance of amendment No. 3 to the order, as amended, and as amended by said amendment No. 1 and said amendment No. 2, is the only practical means, pursuant to such policy, of advancing the interest of producers of milk which is produced for sale in said area; and

3. That the issuance of amendment No. 3 to the order, as amended, and as amended by said amendment No. 1 and said amendment No. 2, is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of April 1941, said month having been determined to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, Claude R. Wickard, Secretary of Agriculture of the United States, has executed this determination and has hereunto set his hand and caused the official seal of the Department of

Agriculture to be affixed in the city of Washington, District of Columbia, this 23d day of September 1941.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT
The President of the United States.

Dated September 25, 1941.

[F. R. Doc. 41-7297; Filed, September 30, 1941;
11:27 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON THE MINIMUM WAGE RECOMMENDATION OF INDUSTRY COM- MITTEE NO. 32 FOR THE KNITTED OUTER- WEAR INDUSTRY; AND THE PROHIBITION, RESTRICTION, OR REGULATION OF HOME WORK IN THE INDUSTRY

Whereas the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to section 5 (b) of the Fair Labor Standards Act of 1938, on July 8, 1941, by Administrative Order No. 115, appointed Industry Committee No. 32 for the Knitted Outerwear Industry, composed of an equal number of representatives of the public, employers in the Industry and employees in the Industry, such representatives having been appointed with due regard to the geographical regions in which the Industry is carried on; and

Whereas Industry Committee No. 32, on August 19, 1941, unanimously recommended a minimum wage rate for the Knitted Outerwear Industry and duly adopted a report containing such recommendation and reasons therefor, and filed such report with the Administrator on August 20, 1941, pursuant to section 8 (d) of the Act and § 511.19 of the Regulations, issued under the Act; and

Whereas the Administrator is required by section 8 (d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendation of Industry Committee No. 32 if he finds that such recommendation is made in accordance with law and is supported by the evidence adduced at the hearing before him and taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of Section 8 of the Act; and, if he finds otherwise, to disapprove such recommendation; and

Whereas section 8 (f) of the Act provides that wage orders "shall contain such terms and conditions as the Administrator finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein;" and,

Whereas there are employees employed in homes in the production of knitted outerwear for commerce.

Now, therefore, notice is hereby given that:

I. The recommendation of Industry Committee No. 32 is as follows:

Every employer shall pay not less than 40 cents per hour to each of his employees who is engaged in commerce or in the production of goods for commerce in the Knitted Outerwear Industry as defined in Administrative Order No. 115, dated July 8, 1941.

II. The definition of the Knitted Outerwear Industry as set forth in Administrative Order No. 115, issued July 8, 1941, is as follows:

The knitting from any yarn or mixture of yarns and the further manufacturing, dyeing or other finishing of knitted garments, knitted garment sections, or knitted garment accessories for use as external apparel or covering which are partially or completely manufactured in the same establishment as that where the knitting process is performed; and the manufacture of bathing suits from any purchased fabric; provided that the manufacturing, dyeing or other finishing of the following shall not be included:

- (a) Knitted fabric, as distinguished from garment sections or garments, for sale as such.
- (b) Fulleed suitings, coatings, topcoatings, and overcoatings.
- (c) Garments or garment accessories made from purchased fabric; except bathing suits.
- (d) Gloves or mittens.
- (e) Hosiery.
- (f) Knitted garments or garment accessories for use as underwear, sleeping wear, or negligees.
- (g) Fleece-lined garments made from knitted fabric containing cotton only or containing any mixture of cotton and not more than 25 percent, by weight, of wool or animal fiber other than silk.
- (h) Knitted shirts of cotton or any synthetic fiber or any mixture of such fibers which have been knit on machinery of 10-cut or finer, provided that this exception shall not be construed to exclude from the knitted outerwear industry the manufacturing, dyeing or other finishing of knitted shirts made in the same establishment as that where the knitting process is performed, if such shirts are made wholly or in part of fibers other than those specified in this clause, or if such shirts of any fiber are knit on machinery coarser than 10-cut.

The definition of the Knitted Outerwear Industry covers all occupations in the Industry which are necessary to the production of the articles specified in the definition including clerical, maintenance, shipping, and selling occupations: *Provided, however*, That such clerical, maintenance, shipping, and selling occupations when carried on in a wholesal-

ing or selling department physically segregated from other departments of a manufacturing establishment, the greater part of the sales of which wholesaling or selling department are sales of articles which have been purchased for resale, shall not be deemed to be covered by this definition: *And provided further*, That where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay he shall be paid the highest of such rates for such workweek unless records concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

III. The full text of the report and recommendation of Industry Committee No. 32 is and will be available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following offices of the United States Department of Labor, Wage and Hour Division:

Boston, Massachusetts, Old South Building, 294 Washington Street.

New York, New York, Parcel Post Building, 341 Ninth Avenue.

Newark, New Jersey, Essex Building, 31 Clinton Street.

Philadelphia, Pennsylvania, 1216 Widener Building, Chestnut and Juniper Streets.

Pittsburgh, Pennsylvania, 219 Old Post Office Building, Fourth and Smithfield Streets.

Richmond, Virginia, 215 Richmond Trust Building, 627 East Main Street.

Baltimore, Maryland, 201 North Calvert Street.

Raleigh, North Carolina, North Carolina State Department of Labor, Salisbury and Edenton Streets.

Columbia, South Carolina, Federal Land Bank Building, Hampton and Marion Streets.

Atlanta, Georgia, Fifth Floor, Wilt Building, 249 Peachtree Street, N. E.

Jacksonville, Florida, 456 New Post Office Building.

Birmingham, Alabama, 1007 Comer Building, Second Avenue and 21st Street.

New Orleans, Louisiana, 916 Union Building.

Nashville, Tennessee, 509 Medical Arts Building, 115 Seventh Avenue, North.

Cleveland, Ohio, Main Post Office, West Third and Prospect Avenue.

Cincinnati, Ohio, 1312 Traction Building, Fifth and Walnut Street.

Detroit, Michigan, 348 Federal Building.

Chicago, Illinois, 1200 Merchandise Mart, 222 West North Bank Drive.

Minneapolis, Minnesota, 406 Penco Building, 730 Hennepin Avenue.

Kansas City, Missouri, 504 Title and Trust Building, Tenth and Walnut Streets.

Denver, Colorado, 300 Chamber of Commerce Building, 1726 Champa Street.

St. Louis, Missouri, 100 Old Federal Building.

Dallas, Texas, Rio Grande National Building, 1100 Main Street.

San Francisco, California, Room 500, Humboldt Bank Building, 785 Market Street.

Los Angeles, California, 417 H. W. Hellman Building, 354 South Spring Street.

Seattle, Washington, 305 Post Office Building, Third Avenue and Union Street.

San Juan, Puerto Rico, Post Office Box 112.

Juneau, Alaska, D. B. Stewart, Commissioner of Mines.

Washington, District of Columbia, Department of Labor, Fourth Floor.

Copies of the Committee's report and recommendation may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C.

IV. A public hearing will be held on November 5, 1941, before Major Robert N. Campbell as Presiding Officer, at 10:00 a. m. in Room 3229, United States Department of Labor, Washington, D. C., for the purpose of taking evidence on the following questions:

1. Whether the recommendation of Industry Committee No. 32 shall be approved or disapproved; and

2. In the event an order is issued approving the recommendation, what, if any, prohibition, restriction, or regulation of home work in this industry is necessary to carry out the purpose of such order, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rate established therein.

V. Any interested person, supporting or opposing the recommendation of Industry Committee No. 32, or supporting or opposing the prohibition, restriction, or regulation of home work in the industry, may appear at the aforesaid hearing to offer evidence, either on his own behalf or on behalf of any other person; *Provided*, That not later than October 28, 1941, any such person shall file with the Administrator at Washington, D. C., a notice of his intent to appear which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing.

3. Whether such person proposes to appear for or against the recommendation of Industry Committee No. 32.

4. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 32 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., or by consulting with attorneys representing the Administrator who will be available for that purpose at the offices of the Wage and Hour Division in Washington, D. C.

VII. Copies of the following documents relating to the Knitted Outerwear Industry will be made available upon request for inspection by any interested person who intends to appear at the aforesaid hearing:

Report entitled, *Knitted Outerwear Industry*, prepared by Research and Statistics Branch, Wage and Hour Division, U. S. Department of Labor, August 1941.

Bulletin, Serial No. R. 963, reprint from the *Monthly Labor Review*, July 1939, entitled, *Differences in Living Costs in Northern and Southern Cities*.

Bulletin, Serial No. R. 1293, entitled, *Changes in Cost of Living*, dated March 15, 1941, prepared by the Bureau of Labor Statistics, U. S. Department of Labor.

Release, entitled *Estimated Intercity Differences in Costs of Living, March 15, 1941*, prepared by the Bureau of Labor Statistics, U. S. Department of Labor.

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or the Presiding Officer as are deemed appropriate:

1. The hearings shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request made to the official reporter of the Wage and Hour Division, United States Department of Labor, Washington, D. C.

2. In order to maintain orderly and expeditious procedure, each person filing a Notice to Appear shall be notified, if practicable, of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice he will not be permitted to offer evidence at any other time except by special permission of the presiding officer.

3. At the discretion of the presiding officer the hearing may be continued from day to day, or adjourned to a later date, or to a different place by announcement thereof at the hearing by the presiding officer, or by other appropriate notice.

4. At any stage of the hearing, the presiding officer may call for further evidence upon any matter. After the presiding officer has closed the hearing before him, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

5. All evidence must be presented under oath or affirmation.

6. Written documents or exhibits, except as otherwise permitted by the presiding officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof; and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.

7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the presiding officer. When evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the presiding officer the original document together with two copies of those portions of the document intended to be put in evidence. Upon presentation of such copies in proper form the copies will be received in evidence.

8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such application shall be timely and shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.

9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

10. The rules of evidence prevailing in the courts of law or equity shall not be controlling.

11. The presiding officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person in so far as is practicable, and to object to the admission or exclusion of evidence by the presiding officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the presiding officer. Objections to the approval of the Committee's recommendation and to the promulgation of a wage order based upon such approval must be made at the hearing before the presiding officer.

12. Before the close of the hearing, the presiding officer shall receive written requests from persons appearing in the

proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with the record of the proceedings. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceedings, and shall designate the time and place at which oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing, the presiding officer shall forthwith file a complete record of the proceedings with the Administrator. The presiding officer shall not file an intermediate report unless so directed by the Administrator. If a report is filed, it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 29th day of September 1941.

BAIRD SNYDER III,
Acting Administrator.

[F. R. Doc. 41-7300; Filed, September 30, 1941;
11:31 a. m.]

FEDERAL DEPOSIT INSURANCE CORPORATION.

ORDER FOR REPORT OF SUMMARY OF DEPOSITS

Pursuant to the provisions of subsections (j) and (k) of section 12B of the Federal Reserve Act, as amended (Sec. 101 (j) and (k), 49 Stat. 692, 693; 12 U.S.C., Sup., 264 (j) and (k)), *It is ordered*, That each insured bank shall submit to the Federal Deposit Insurance Corporation on or before October 3, 1941, a report of its deposits as of the close of business September 24, 1941, on Form 89—Call No. 3, entitled "Summary of Deposits"¹ and said report shall be prepared in accordance with the "Instructions for Preparation of Form 89—Call No. 3."¹

[SEAL] FEDERAL DEPOSIT INSURANCE CORPORATION.
JEAN S. GLASCOCK,
Assistant Secretary.

[F. R. Doc. 41-7294; Filed, September 30, 1941;
11:16 a. m.]

¹ Filed as part of the original document.

FEDERAL LOAN AGENCY.

Federal Housing Administration.

NOTICE OF CALL FOR PARTIAL REDEMPTION, BEFORE MATURITY OF 2¾ PERCENT MUTUAL MORTGAGE INSURANCE FUND DEBENTURES, SERIES B

SEPTEMBER 24, 1941.

To holders of 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B.

Pursuant to the authority conferred by the National Housing Act (48 Stat. 1246; U.S.C., title 12, Sec. 1701 et seq.) as amended, public notice is hereby given that 2¾ percent Mutual Mortgage Insurance Fund debentures, Series B, of the denominations and serial numbers designated below, are hereby called for redemption, at par and accrued interest, on January 1, 1942, on which date interest on such debentures shall cease:

Denomination:	Serial Nos. (all numbers inclusive)
\$50-----	839 to 1160
\$100-----	3113 to 4048
\$500-----	1191 to 1403
\$1,000-----	4000 to 4999
\$5,000-----	248 to 328
\$10,000-----	31 to 39

The debentures first issued, as determined by the serial numbers, were selected for redemption by the Federal Housing Administrator, with the approval of the Secretary of the Treasury.

No transfers or denominational exchanges in debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1941. This does not affect the right of the holder of a debenture to sell and assign the debenture on or after October 1, 1941, and provision will be made for the payment of final interest due January 1, 1942, with the principal thereof to the actual owner, as shown by the assignments thereon.

The Federal Housing Administrator hereby offers to purchase any debentures included in this call at any time from October 1 to December 31, 1941, inclusive, at par and accrued interest, to date of purchase.

Instructions for the presentation and surrender of debentures for redemption on or after January 1, 1942, or for purchase prior to that date will be given by the Secretary of the Treasury.

ABNER H. FERGUSON,
Administrator.

Approved: September 27, 1941.

D. W. BELL,
Acting Secretary of the
Treasury.

[F. R. Doc. 41-7242; Filed, September 29, 1941;
9:55 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4508]

IN THE MATTER OF CONCORD DISTRIBUTING COMPANY, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of September, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to the authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That Andrew B. Duvall, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 8, 1941, at two o'clock in the afternoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7301; Filed, September 30, 1941;
11:32 a. m.]

[Docket No. 4520]

IN THE MATTER OF S. ANGELL & COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of September, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That Andrew B. Duvall, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 13, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7302; Filed, September 30, 1941;
11:32 a. m.]

[Docket No. 4532]

IN THE MATTER OF UTILITIES ENGINEERING
INSTITUTE

ORDER APPOINTING TRIAL EXAMINER AND
FIXING TIME AND PLACE FOR TAKING
TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of September, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, October 10, 1941, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7303; Filed, September 30, 1941;
11:32 a. m.]

[Docket No. 4566]

IN THE MATTER OF JAMES BELL COMPANY,
INC.

ORDER APPOINTING TRIAL EXAMINER AND
FIXING TIME AND PLACE FOR TAKING
TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of September, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal

Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41).

It is ordered, That Andrew B. Duvall, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, October 10, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-7304; Filed, September 30, 1941;
11:32 a. m.]

SECURITIES AND EXCHANGE COM-
MISSION.

[File No. 70-408]

IN THE MATTER OF PHILADELPHIA ELECTRIC
COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1941.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party; and

Notice is further given that any interested person may, not later than October 15, 1941 at 4:45 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transaction therein proposed, which is summarized below:

Philadelphia Electric Company, a subsidiary of The United Gas Improvement

Company, a registered holding company, proposes to issue and sell, at a price to be determined by competitive bidding, \$20,000,000 principal amount of 2¾% First and Refunding Mortgage Bonds, maturing December 1, 1971. The net proceeds from the sale of the bonds proposed to be issued will be applied, in the amount of \$20,000,000, to pay the principal amount of presently outstanding 1½% Promissory Notes payable to banks and maturing December 3, 1941. The balance, if any, of the net proceeds will be added to the general cash funds of the company.

The third sentence of section 6 (b) of the Act and Rule U-50 are designated as applicable to the proposed transactions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7305; Filed, September 30, 1941;
11:42 a. m.]

[File No. 1-2554]

IN THE MATTER OF PROCEEDING UNDER
SECTION 19 (a) (2) OF THE SECURITIES
EXCHANGE ACT OF 1934, AS AMENDED, TO
DETERMINE WHETHER THE REGISTRATION
OF NEW SUTHERLAND DIVIDE MINING
COMPANY COMMON CAPITAL STOCK, 10¢
PAR VALUE, ASSESSABLE, SHOULD BE
SUSPENDED OR WITHDRAWN

ORDER FOR HEARING AND DESIGNATING OFFI-
CER TO TAKE TESTIMONY

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1941.

I

It appearing to the Commission:

That New Sutherland Divide Mining Company, a corporation organized under the laws of the State of Nevada, is the issuer of Common Capital Stock, 10¢ Par Value, Assessable; and

That said New Sutherland Divide Mining Company registered such security on the San Francisco Mining Exchange, a national securities exchange, by filing on or about April 6, 1936, an application on Form 10 with the Exchange and with the Commission pursuant to section 12 (b) and (c) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, promulgated by the Commission thereunder, which registration became effective June 1, 1936, and has remained in effect to and including the date hereof; and

It further appearing to the Commission:

That Rule X-13A-1, promulgated pursuant to section 13 of the Securities Exchange Act of 1934, as amended, did and does require that an annual report

for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule X-13A-2, promulgated pursuant to section 13, of the Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for annual reports of all corporations except those for which another form is specified, and that no other form was or is specified for use by the said New Sutherland Divide Mining Company; and

That Item 8 of Form 10-K and the Instruction Book for Form 10-K, promulgated pursuant to section 13 of the Securities Exchange Act of 1934, require that certified financial statements of the registrant for the period under report be filed as a part of such annual report to be filed on said Form 10-K; and

II

The Commission having reasonable cause to believe that the said New Sutherland Divide Mining Company has failed to comply with the provisions of section 13 of the Securities Exchange Act of 1934, as amended, the Rules and Regulations, Form 10-K and the Instructions thereto, promulgated by the Commission thereunder, in that no certified financial statements have been filed for the fiscal year ended December 31, 1940, as required by Item 8 of Form 10-K and the Instructions thereto and the Rules and Regulations of the Commission within the time prescribed for filing; and

III

It being the opinion of the Commission that the hearing herein ordered to be held is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Securities Exchange Act of 1934, as amended;

It is ordered, Pursuant to section 19 (a) (2) of said Act, that a public hearing be held to determine whether New Sutherland Divide Mining Company has failed to comply with section 13 of the Securities Exchange Act of 1934, as amended, and the Rules, Regulations and Forms promulgated by the Commission thereunder, in the respects set forth above; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of the Common Capital Stock, 10¢ Par Value, Assessable, of said New Sutherland Divide Mining Company on said San Francisco Mining Exchange;

It is further ordered, Pursuant to the provisions of section 21, (b) of the Se-

curities Exchange Act of 1934, as amended, that for the purpose of such hearing, John G. Clarkson, an officer of the Commission, is hereby designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law;

It is further ordered, That the taking of testimony in this hearing begin on the 21st day of October at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such time and place as the officer hereinbefore designated may determine.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7306; Filed, September 30, 1941;
11:42 a. m.]

[File No. 70-402]

IN THE MATTER OF CITIES SERVICE POWER
& LIGHT COMPANY

ORDER PERMITTING DECLARATION TO BECOME
EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1941.

The above named person having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly section 12 (c) thereof and Rule U-42 thereunder, regarding the expenditure by the Company of not to exceed \$100,000, in addition to amounts permitted by Rules and prior authorization of the Commission, in the acquisition of its outstanding preferred stock during the period beginning with the date of this order and ending one year from such date, the acquisitions to be made at such times and from time to time during said period as in the judgment of the Management of the Company may be desirable or appropriate and to be made in the open market either through brokers or dealers on securities exchanges or in the over-the-counter market, or at private sales, at the current market prices prevailing at the time of purchase; but no such acquisitions to be made at a price exceeding the involuntary liquidating value thereof of \$100 per share nor from any affiliated Company; and

Said declaration having been filed on September 15, 1941, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and the above named party having requested that said declaration, as filed, become effective forthwith; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit the said declaration, pursuant to Rule U-42, to become effective, and being satisfied that the effective date of such declaration should be advanced:

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration, be, and hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7307; Filed, September 30, 1941;
11:42 a. m.]

[File No. 70-396]

IN THE MATTER OF KEYES FIBRE COMPANY

ORDER GRANTING EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1941.

Keyes Fibre Company, a subsidiary company of New England Public Service Company, a registered holding company, having filed an application pursuant to the third sentence of section 6 (b) of the Public Utility Holding Company Act of 1935 regarding the issue and sale of \$1,400,000 principal amount of the First Mortgage Sinking Fund 4½% Bonds and having in this connection applied for exemption of such issue and sale from the provisions of Rule U-50 promulgated under said Act:

It is ordered, That said issue and sale be and the same hereby is exempted from the provisions of Rule U-50, jurisdiction being reserved as to the application pursuant to section 6 (b).

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7308; Filed, September 30, 1941;
11:42 a. m.]